

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **December 16, 2003**

AGENDA ITEM NO.: 11

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Future Land Use Amendment / Rezoning / Conditional Use Permit – 100 Mountain View Road, 1971 University Boulevard, Liberty Mountain Drive**

RECOMMENDATION: Approval of the requested Future Land Use Map Amendment, Rezoning & Conditional Use Permit as recommended by the Planning Commission.

SUMMARY: The Planning Commission is recommending an amendment to the Future Land Use Map (FLUM) for the property located at 100 Mountain View Road from “Employment 2” to “Institutional” and “Regional Commercial”. This map amendment is needed in order for the following petitions to be in compliance with the *Comprehensive Plan 2002 – 2020*.

Thomas Road Baptist Church, Liberty University Inc., Lynchburg Christian Academy, Freedom Liberty Partners, Jerry Falwell Ministries, GDT, CGI, LLC and Bostic Development at Lynchburg, LLC are petitioning to:

1. Rezone approximately 123 acres on Liberty Mountain Drive from B-3, Community Business District Conditional, to B-3, Community Business District (Conditional) to amend previously approved proffers. The petitioner originally requested a B-5, General Business District (Conditional), zoning for this property but agreed at the November 26, 2003 Planning Commission meeting to a B-3, Community Business District (Conditional) zoning as suggested by the Planning Division with the following voluntarily suggested proffers:
  - Tree clearance shall be minimized on the property. Any deforestation due to construction as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit shall be reforested and replanted with a mixture of 25% evergreens and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees and shall be a minimum of 2.0 inches in caliper at time of planting. The City’s Urban Forester and City Planner shall approve the reforestation plan as to location and type of trees to ensure compliance with these proffers.
  - Any new parking areas shall have landscaped islands every 10 – 15 spaces with shade type trees surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. The City’s Urban Forester and City Planner shall approve the landscaping plan as to location and type of trees and shrubs to ensure compliance with these proffers.
2. Rezone approximately 83 acres at 100 Mountain View Road from I-2, Light Industrial District to B-5, General Business District (Conditional). The petitioner originally requested a B-5, General Business District (Conditional) zoning for this property but agreed at the November 26, 2003 Planning Commission meeting to a B-1, Limited Business District zoning as suggested by the Planning Division. The petitioner is now requesting that the original request for a B-5, General Business District (Conditional) zoning be acted upon by the City Council. The petitioner voluntarily submitted the following proffers on December 1, 2003:
  - Area C shall be developed in substantial compliance with the site plan entitled Master Plan for Rezoning and Conditional Use Permit as prepared by ACRES of Virginia, Inc., dated Revised November 4, 2003. However, further review by the Planning Commission and the City Council of any Thomas Road Baptist Church or Liberty University expansion project directly relating to university, church or K-12 school uses, is not required providing all conditions of the Conditional Use Permit are met and student enrollment of Liberty University does not exceed 10,000 resident students. Signs and external building modifications not directly relating to university, church, or K-12 uses are subject to approval by the City’s Design Review Board.
  - The following uses shall not be permitted in Area C:
    1. Armories

2. Automobile and truck rental
3. Automobile, truck and trailer sales
4. Rebuilding and retreading establishments
5. Battery sales
6. Billboards
7. Blacksmith shops
8. Dance halls
9. Exterminators
10. Automobile painting and body repair shops
11. Sales lots for construction and farm equipment and similar machinery
12. Commercial kennel for dogs and other pets
13. Monument and gravestone sales
14. Wholesale or produce markets
15. Second hand stores
16. Small sign shops
17. Travel trailer sales and rentals
18. Establishments selling the following types of merchandise at retail:
  - Household appliances
  - Drugs and pharmaceuticals
  - Building material sales
  - Hardware
  - Bicycles
  - Carpets and rugs
  - Furniture
  - Garden and farm supplies
  - Greenhouses, nurseries and garden supplies
  - Orthopedic appliances
  - Optical goods
  - Paint
  - Pets
  - Radios, television sets and phonographs
  - Supermarket or food stores exceeding 8000 square feet
  - Virginia A.B.C. package store
19. Services Listed Below:
  - Funeral undertakers
  - Locksmith shops
  - Pawn shops
  - Wholesale sales establishments
  - Custom dress making
  - Shoe repairing

- Tailoring shops
- Opticians and Optometrists
- Laundries and dry cleaning establishments

The Planning Commission has not had the opportunity to review the proffers because they were submitted after the Planning Commission public hearing. During work sessions with the petitioner, the Planning Commission repeatedly suggested that the property at 100 Mountain View Road should be limited to only church, university and K-12 uses or the site plan should be proffered. The rezoning of the property to a B-5, General Business District (Conditional) without any proffers of merit would allow unrestricted development of the property with no further input from the Planning Commission or the City Council. Impacts to the area would be difficult to analyze and necessary infrastructure improvements related to the development would be difficult to obtain. The absence of acceptable proffers resulted in the Planning Division recommending a B-1, Limited Business District zoning for the property. The B-1 zoning would allow for all uses submitted in the rezoning and cup petitions while minimizing other types of development.

The newly submitted proffers are acceptable to the Planning Division as they restrict the development of the property for any new buildings not directly relating to church, university or K-12 uses. Since the Planning Commission has not had the opportunity to review the new proffers the City Council has the following options:

- Vote on the petitions as submitted by the Planning Commission
- Vote on the petitions as requested by the petitioner
- Delay action on the petitions
- Refer the petitions back to the Planning Commission for further review

3. Obtain a CUP to allow university and K-12 school uses at 100 Mountain View Road, 1971 University Boulevard and Liberty Mountain Drive.

PRIOR ACTION(S):

September 24, 2003 Planning Commission Work Session

October 8, 2003 Planning Commission Work Session

October 22, 2003 Planning Commission Work Session

November 26, 2003: Planning Division recommended approval of:

- Future Land Use Map Amendment from “Employment 2” to “Institutional” and “Regional Commercial” for the subject property located at 100 Mountain View Road.
- Rezoning the 123 acre tract on Liberty Mountain Drive from B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional), instead of the requested B-5, General Business District (Conditional) zoning.
- Rezoning the 83 acre tract located at 100 Mountain View Road from I-2, Light Industrial District, to B-1, Limited Business District, instead of the requested B-5, General Business District (Conditional) zoning.
- Conditional Use Permit Petition to allow university and K-12 uses on the subject properties located at 100 Mountain View Road, 1971 University Boulevard and Liberty Mountain Drive.

Planning Commission recommended approval (7-0) of:

- Future Land Use Map Amendment from “Employment 2” to “Institutional” and “Regional Commercial” for the subject property located at 100 Mountain View Road.
- Rezoning the 123 acre tract on Liberty Mountain Drive from B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional).
- Rezoning the 83 acre tract located at 100 Mountain View Road from I-2, Light Industrial District to B-1, Limited Business District.
- Conditional Use Permit Petition to allow university and K-12 uses on the subject properties located at 100 Mountain View Road, 1971 University Boulevard and Liberty Mountain Drive, subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan entitled Master Plan for Rezoning and Conditional Use Permit as prepared by ACRES of Virginia, Inc., dated November 4, 2003 and received November 19, 2003.
2. The westbound "on" ramp from Liberty University to U.S. Route 460 shall be constructed within one year from the approval of this conditional use permit. The estimated cost of constructing the ramp shall be bonded immediately following approval of this conditional use permit. A gated emergency vehicle access shall be incorporated into the design of this ramp. Location of the "on" ramp from Liberty University to U.S. Route 460 shall be as shown on "Proposed Location of "on" ramp to U.S. Route 460 West" dated 11/26/03. Final design is subject to approval by the City Traffic Engineer and the Virginia Department of Transportation.
3. Prior to the issuance of building permits for Phase II of the student housing as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003 a traffic study shall be conducted by the petitioner to determine if an "off" ramp from the eastbound lanes of U.S. Route 460 or a traffic signal at the intersection of Candler's Mountain Road and Liberty Mountain Drive or other road improvements are needed. This traffic study is subject to the approval of the City Traffic Engineer. Any needed improvements will be installed by the petitioner prior to the construction of any portion of the Phase II apartments.
4. Within one year of the approval of this conditional use permit the full cost of the following items shall be bonded and construction shall be completed within one year of the bond being submitted to the City of Lynchburg:
  - a. Mountain View Road shall be converted to "right in" and "right out".
  - b. A right turn lane at the intersection of Mountain View Road and Candler's Mountain Road.
  - c. The petitioner will submit a \$15,000 bond to build a right turn lane at time of CUP approval. Within one year of CUP approval, the City Traffic Engineer will make a determination of whether a right turn lane into the site at the existing signal is still needed.
  - d. The access between Liberty University and Ericsson Drive as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.
  - e. Vehicular and pedestrian access roads as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.  
Location and design of all required traffic improvements is subject to approval by the City Traffic Engineer.
5. Prior to any portion of the property located at 100 Mountain View Road being used for K-12 uses, a site plan showing the locations of recreation areas shall be submitted to and approved by the City Planner.
6. The Liberty University Main Campus connection to Wards Road shall be relocated to Harvard Street as shown on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 within one year of the approval of this conditional use permit. This condition is subject to the petitioner obtaining the approval of Norfolk Southern Railroad and any other property owners involved.
7. Any areas cleared due to the construction of the proposed student housing / apartments as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 shall be reforested and replanted with a mixture of 25% evergreen and 75% deciduous at a rated of 50

trees per acre. All deciduous trees shall be shade type trees. All trees shall be a minimum of 2.0 inches in caliper at time of planting. The City's Urban Forester and City Planner shall approve the reforestation plan as to location and type of trees to ensure compliance with the submitted proffers associated with the rezoning.

8. Any new proposed student housing / apartment buildings shall be similar in appearance to the existing student housing on Liberty Mountain Drive.
9. Any new parking areas shall have landscaped islands every 10 – 15 spaces with shade type trees and surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. The City's Urban Forester and City Planner shall approve the landscaping plan as to the location of and type of trees and shrubs.
10. Adequate parking shall be provided as required by the City of Lynchburg, Zoning Ordinance with the exception of the 1989 variance.
11. Student enrollment figures shall be based on numbers reported by the State Council of Higher Education for Virginia (SCHEV).
12. The recreation facility approved by the City Council on October 14, 2003 is allowed to remain as an accessory use to the University provided that the following conditions are met:
  - a. Appropriate emergency vehicle access shall be provided to "all" practice fields as determined by the Fire Marshals Office and designated on the final approved site plan. Recreation fields without appropriated emergency vehicle access as determined by the Fire Marshal, shall not be used for any recreation purpose until the required access is constructed.
  - b. A fertilization schedule and application rate will be submitted to the Planning Division for review by the Environmental Planner for any "green" areas associated with the golf driving range on a yearly basis. The petitioner shall comply with any changes to the fertilization plan that the Environmental Planner may require.
  - c. The golf driving range will be constructed in a manner so that golf balls will not be hit toward parking areas, or practice filed areas, and will be contained entirely within the property boundaries. Boundaries of the golf driving range shall be designated on the final approved plan in such location as approved by the City Planner.
13. The conditional use permit is valid for a 10,000 maximum student enrollment of Liberty University. Further review by the Planning Commission and the City Council of any expansion project is not required providing all conditions are met and student enrollment of Liberty University does not exceed 10,000 students. When student enrollment exceeds 10,000 students, Liberty University shall be required to obtain a new conditional use permit from the Planning Commission and the City Council.
14. All renovations to the building will be in compliance with the International Building Code (IBC) as determined by the City's Building Official.
15. This CUP will supersede all previous CUP's as related to Areas "A, B & C" as shown on the map entitled "Jerry Falwell Ministries, Rezoning / CUP Areas", dated November 26, 2003.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902

Tom Martin / 455-3909

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan
- Proposed location of “on” ramp to U.S. Route 460 from Liberty University
- Letters of opposition

REVIEWED BY: lkp

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** November 26, 2003  
**Re:** **REZONING: I-2, B-5 & B-3 CONDITIONAL to B-5 CONDITIONAL at 100 MOUNTAIN VIEW ROAD and LIBERTY MOUNTAIN DRIVE**  
**CONDITIONAL USE PERMIT (CUP): 100 MOUNTAIN VIEW DRIVE, 1971 UNIVERSITY BOULEVARD and LIBERTY MOUNTAIN DRIVE**

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**I. PETITIONER**

Jerry Falwell Ministries, 1971 University Boulevard, Lynchburg, VA 24502  
**Representative:** Thomas S. Brooks, Sr., ACRES of VA, 404 Clay Street, Lynchburg, Virginia 24504

**II. LOCATION**

*(Please refer to attached map, "Jerry Falwell Ministries Rezoning / CUP Areas")*

The subject properties proposed for rezoning are:

A tract of approximately 123 acres located on Liberty Mountain Drive (Area B).

A tract of approximately 83 acres located at 100 Mountain View Road (Area C).

The subject properties for which the CUP is requested are tracts of approximately 364 acres located at 100 Mountain View Road (Area C), Liberty Mountain Drive (Area B), and 1971 University Boulevard (Area A).

**Property Owners:**

Liberty University, Inc., 1971 University Boulevard, Lynchburg, VA 24502  
GDT, CG1, LLC, (Hobby Lobby), 7707 SW 44<sup>th</sup> Street, Oklahoma City, OK 73179  
Bostic Development at Lynchburg, LLC, 235 N Edgeworth Street, Greensboro, NC 27401  
Freedom Liberty Partners, 1971 University Boulevard, Lynchburg, VA 24502

**III. PURPOSE**

The purpose of this petition is to rezone Area B from B-3, Community Business District (Conditional) to B-5, General Business District (Conditional) to essentially amend previously approved proffers regarding areas of undisturbed vegetation. To rezone approximately 83 acres of Area C from I-2, Light Industrial District to B-5, General Business District (Conditional) to allow university, K-12, and church uses. To obtain a conditional use permit that would allow university uses on Areas A, B, & C, and to allow a K-12 school use on Area C.

**IV. SUMMARY**

- Petition does not agree with the *Comprehensive Plan 2002 –2020* for Area C which recommends an "Employment 2" use for the subject property. However, the Planning Division does support an amendment to the Future Land Use Map (FLUM) based on data received from Economics Research Associates (ERA) and the Office of Economic Development.
- Petition is in agreement with the *Comprehensive Plan 2002 –2020* for Areas A & B which recommends "Institutional, and Resource Conservation" uses for the subject properties.

**V. FINDINGS OF FACT**

1. **COMPREHENSIVE PLAN.** The *Comprehensive Plan 2002 – 2020* recommends an "Institutional" use for Area A, an "Institutional" and "Resource Conservation" uses for Area B and "Employment 2" uses for Area C.

The major issues associated with the petition are in Areas B & C, Area B is a tract of approximately 123 acres located on Liberty Mountain Drive. This area is indicated as "Institutional" & "Resource

Conservation” on the Future Land Use Map (FLUM). Resource Conservation Areas encompass lands with “special natural characteristics that make their preservation in open space particularly important to the City’s environmental health”. The areas indicated as Resource Conservation on the FLUM include the steep slopes of Candler’s Mountain. Steep slopes are defined as “slopes of 25% or greater”. The site plan as submitted indicates the development of student housing in this area.

Area C (the former Ericsson property) is indicated on the FLUM as an “Employment 2” area. These areas are to include “light and heavy manufacturing, research and development, flex space (mixture of office, light manufacturing, warehousing and associated retail), and large scale office uses”. The *Comprehensive Plan* states that a demand analyses indicated that the City could expect to capture about “1.5 million square feet of industrial uses, about 200,000 square feet of research and development uses and about 720,000 square feet of office uses” during the next 20 years. The *Comprehensive Plan* further states that the projected demand would require approximately 195 acres of raw land for industrial uses and about 35 acres of raw land for office uses.

New information has been provided to the City from Economics Research Associates (ERA) dated 9/12/03. The new data based upon Woods & Poole, Inc., and the Virginia Employment Commission (VEC) employment trends and projections indicates that the City’s expected “fair share” is lower. The new data shows that the City can expect to capture 1.1 million square feet of industrial uses, which equates to approximately 150 acres of raw land. (See Attachment ERA 1)

Information was submitted to the Planning Division from the Office of Economic Development dated 9/10/03. It states there are 484 acres of land currently owned by the Lynchburg Industrial Development Authority (IDA). This was not the case at the time the *Comprehensive Plan* was prepared as additional land has been acquired. Of these 484 acres, 218 acres are considered to be developable. The totals do include an 87 acre tract on Wiggington Road that is currently zoned R-C, Conservation District. However, this area is designated on the FLUM as an “Employment 2” area.

The Director of Economic Development, Ed Miller states “The proposed rezoning of the above mentioned property has caused somewhat of a dilemma for me. On the one hand, the City is landlocked and from an economic development prospective it is difficult to give up a property of this size which is zoned industrial. On the other hand, it would be extremely difficult to market the former Ericsson building which is located on the site because of its size, layout and maintenance costs of the facility. Also it is my understanding that the Woods and Poole study, which was authorized by Community Planning & Development, indicates that using historical trends the City has enough industrially zoned property to last until the year 2020. Considering all factors, the Office of Economic Development is not opposed to the rezoning.”

The *Comprehensive Plan* states that “the City places a high value on educational resources and will continue to support their presence within the City and to work with them in coordinating City Planning with campus master planning and facilities development”. When the former Ericsson facility closed, an obvious opportunity for expansion presented itself to Liberty University due to its proximity to the university. The issue that must be decided is how to balance the citywide need for employment areas with the need for expansion of a major institution.

An Economic Impact Study prepared for Liberty University by the Longwood College Small Business Development Center indicates that the presence of a major institution has a positive impact on the City. The Economic Impact Study estimates total direct spending by the University and its faculty, staff, students and visitors to be \$56.3 million per year. Using a 2.0x multiplier effect as suggested in the study it is estimated that the total economic impact of Liberty University to the Lynchburg area is \$112.6 million per year. (See attachment (*LU Impact Study*))

A preliminary review of the study conducted by ERA indicated several inconsistencies within the study. The direct spending amount estimated at \$56.3 million per year includes \$17.3 million that is spent *outside* the City and neighboring Counties. The actual direct spending amount should be listed as \$38.4 million as money spent outside the primary area does not benefit local businesses and does not result in new economic activity within local boundaries. Further based upon the Regional Input-Output Modeling System (RIMS II) method for estimating regional multipliers developed by the Bureau of Economic Analysis (BEA) and the U.S. Department of Commerce the 2.0x multiplier used in the study is significantly higher than what should be used for the City of Lynchburg. According to the RIMS II

method a 1.6x multiplier should be used for spending by the University and a 1.4x multiplier should be used for spending by employees of the University. The ERA review of the Economic Impact Study estimates that the study significantly overstates the total economic spending of the University on the City's (and regions) economy. However, while the study may overestimate the extent, there is still a positive impact to the City's economy from the University. (See *attachment ERA 2*)

Based upon the information provided by ERA and the Office of Economic Development, the Planning Division recommends that the Future Land Use Map be amended to allow "Institutional and Regional Commercial" uses on the 110 acre tract located at 100 Mountain View Road (Area C). (See *attached map Proposed Land Use Plan*)

## 2. ZONING.

### Area A

The existing B-5, General Business District Zoning for the Liberty University Main Campus was established on December 12, 1978 with the adoption of the current Zoning Ordinance.

The existing B-5, General Business District (Conditional) zoning for the southwest portion of the campus was established on April 12, 1988. The only proffer attached to this rezoning is that "the site will be restricted to those uses permitted in B-5 districts by the Code of the City of Lynchburg, Virginia, with the exception, however, that the site will be used only for purposes that are associated with a university campus, university housing, and/or accessory uses and services related thereto".

The Liberty University Main Campus is operating under a CUP approved by the City Council on November 13, 2001. Conditions of the CUP are:

1. "The property shall be used and developed in substantial compliance with the site plan by Hurt & Proffitt titled 'CUP Plan for Liberty University Student Center, City of Lynchburg, Virginia' dated 9/24/01 and revised 10/16/01, to allow the construction of the student centers."
2. "All conditions of the Master Development Plan required by the City Council, particularly with reference to the construction of ramps and interchanges, shall be complied with, within the stipulated time frame."
3. "At such time that Liberty University proposes a use that generates additional traffic, such as dorms or additional classrooms, the University shall provide (a) a traffic study re-evaluating the traffic conditions around Liberty University to determine if the westbound ramps are still needed and to determine what other roadway improvements are necessary, and (b) an accurate tabulation of student enrollment to determine appropriate parking requirements."
4. "The bonding or construction of the westbound ramps is not required for the issuance of building permits for the Student Centers, but the westbound ramps or other new permanent access approved by the City and adequate off-street parking shall be constructed in order for the City to consider removing the current restrictions on (a) the simultaneous use of the stadium and the arena, (b) the need for personnel from the Police Department and the Fire Marshal's Office for traffic control and crowd control, and (c) the provision of emergency and medical fire protection services to the property."
5. "The overall property shall be used and developed in substantial compliance with the site plan by Liberty University Field Operations division titled, "Site Plan – Building & Parking Lot Index dated 6/21/93 and revised numerous times with the most recent revision date of 10/9/01. This plan includes:
  - The two Student Centers
  - Visitor Center (previously approved)
  - Three dormitories (previously approved)
  - Additional parking spaces"
6. "The Student Center facilities are removing more parking from the University property. At no time shall University Boulevard or other public property be used as required parking to compensate for the loss of on-campus parking from this or future facilities."

7. "There shall be an amount of new landscaping planted on the site equivalent to any landscaping that is removed from the site to allow new construction."

#### **Area B**

The existing B-3, Community Business District Zoning for the property located on Liberty Mountain Drive was established on November 8, 1988. Proffers attached to this rezoning are:

1. "The site shall be developed substantially in accordance with the conceptual site plan. The area where no buildings are shown on the site plan shall be restricted to those uses permitted in a B-3 zoning district in the City of Lynchburg, except as provided in these proffers."
2. "The property shall be used only for a full service retirement community consisting of no more than 1850 independent living units and a two hundred fifty (250) bed health facility. All such development plans are, of course, dependent upon consumer demand for the living units."
3. "The commercial portions of the retirement community shall be restricted to two or three 'commons' buildings similar to the one shown on the site plan."
4. "Fifty percent (50%) of the subject property (plus or minus 10%) shall remain undeveloped and existing vegetation shall remain undisturbed because of the steepness of the terrain and to preserve the natural beauty of the site."

#### **Area C**

The subject property was annexed into the City of Lynchburg in 1958. The property has been zoned for manufacturing uses since 1960. The current I-2, Light Industrial District was established in 1978 with the adoption of the current Zoning Ordinance. On July 3, 2003, Art Tolley, Zoning Official determined that the following by right uses (associated with the University) could occur on the site:

1. Automobile parking lots
  2. Catering (off-premise service)
  3. Computer center
  4. Data processing service
  5. Depository for storage of records
  6. Distribution center
  7. Telephone exchange
  8. Warehousing and storage
  9. Carpentry and cabinet making shops
  10. Moving and storage facility
  11. Offices (related to services allowed on site )
  12. Printing and publishing
  13. Trade expositions
  14. Newspaper publishing and printing
  15. Research and development and testing laboratories
  16. Radio and television studios and stations
  17. Telecommunication towers and facilities
3. **PROFFERS.** The petitioner voluntarily submitted the following revised proffers on November 14, 2003.
    1. Within one year of the date of rezoning, vehicular and pedestrian connections shall be constructed between the LU Campus & the former Ericsson property as shown on the Master Site Plan. In addition and also within one year of the date of the rezoning, vehicular and pedestrian roads and sidewalks shall be constructed on the former Ericsson property at the

locations shown on the Master Site Plan. The cost of construction said access ways shall be bonded in an amount equal to the estimated cost of construction.

2. An emergency vehicle access point will be constructed to the Liberty University Main Campus from the westbound land of U.S. Route 460. Upon completion of the emergency vehicle access road on U.S. Route 460, Liberty University will no longer be required to hire Lynchburg City police officers and fire marshals for athletic and other special events.
  3. The main campus connection to Wards Road shall be relocated to Harvard Street within one year of the rezoning as shown on the Master Site Plan. This obligation is subject to the petitioner obtaining the approval of Norfolk Southern Railroad and the owners of the property where Sandrof Auto Body Shop is now located.
  4. Adequate parking shall be provided as required by the Zoning Ordinance, with the exception of the 1989 variance.
  5. No simultaneous use of the sanctuary, Vines Center and Williams Stadium shall be permitted.
  6. Tree clearance shall be minimized on the property located on the east side of U.S. 460 as provided on the Master Site Plan.
  7. Stormwater management will address both quality and quantity.
  8. The southwest parking area on the main campus will be landscaped as shown on the Master Site Plan.
  9. Any new parking areas shall have landscaped islands every 10 -15 spaces with shade type trees and surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads.
4. **BOARD OF ZONING APPEALS (BZA).** The Zoning Official has determined that no variances will be needed for the proposed rezoning or conditional use permit.
5. **SURROUNDING AREA.** The following are items in the area that have required City Council approval. Please refer to attached map entitled "City Council Approvals".
1. On December 12, 1978 the City Council adopted the "Official Zoning Map". With this adoption, 142 acres of the **Liberty University main campus** was rezoned from M, Manufacturing to B-5, General Business District.
  2. On November 11, 1983 the City Council approved the petition of Old Time Gospel Hour to rezone 133 acres on **Liberty Mountain Drive** from R-C, Conservation District to R-4, Multi-Family Residential District (Conditional) to allow the construction of four (4) 400 unit apartment buildings and a 250 bed health care facility.
  3. On October 14, 1986 the City Council approved the petition of Thomas L. Phillips to rezone 29 acres in the **3400 block of Candler's Mountain Road** from I-2, Light Industrial District, I-3, Heavy Industrial District, B-5, General Business District (Conditional), B-3, Community Business District (Conditional) and R-4, Multi-Family Residential District (Conditional) to B-5, General Business District (Conditional), B-3, Community Business District (Conditional) and R-4, Multi-Family Residential District (Conditional) to allow the construction of townhouses and retail.
  4. On March 10, 1987 the City Council approved the petition of Old Time Gospel Hour to rezone 16 acres at **3777 Candler's Mountain Road** from R-4, Multi-Family Residential District (Conditional) to B-3, Community Business District (Conditional) to allow the construction of a radio and television studio.
  5. On April 12, 1988 the City Council approved the rezoning petition of Old Time Gospel Hour for the remaining 30 acres of the **Liberty University main campus** from I-2, Light Industrial District to B-5, General Business District (Conditional) to allow the construction of dormitories and the expansion of other university related uses.
  6. On November 8, 1988 the City Council approved the petition of Old Time Gospel Hour / Village Management, Inc. to rezone 134.2 acres at **3765 Candler's Mountain Road** from R-4, Multi-

Family Residential District (Conditional) to B-3, Community Business District (Conditional) to allow the construction of a retirement community.

7. On March 14, 1989 the City Council approved the CUP petition of Old Time Gospel Hour / Liberty University for the construction of a 12,000 seat football stadium and a 9,000 seat basketball arena (the Vine Center) on the **Liberty University main campus**. A condition of this CUP was the construction of a secondary permanent access, subject to approval by the City.
8. On July 11, 1989 the City Council approved the petition of N. W. Development to rezone 30.5 acres in the **3600 Block of Candler's Mountain Road** from I-2, Light Industrial District, B-5, General Business District (Conditional), and R-4 (Conditional) to B-3, Community Business District (Conditional) to allow the construction of Candler's Station shopping center.
9. On November 14, 1989 the City Council approved the petition of N. W. Development to rezone 2.6 acres in the **3600 Block of Candler's Mountain Road** from I-2, Light Industrial District to B-3, Community Business District (Conditional) to allow retail sales as part of Candler's Station.
10. An extension regarding the time period for construction of a new primary access to the **Liberty University main campus** was granted on September 11, 1990. The City Council approved an amendment to the March 14, 1989 CUP petition of Old Time Gospel Hour / Liberty University.
11. On October 9, 1990 the City Council approved the petition of Candler's Station Limited Partnership to rezone 2.54 acres in the **3600 Block of Candler's Mountain Road** from I-3, Heavy Industrial District to B-3, Community Business District (Conditional) and B-5, General Business District (Conditional) to allow retail sales as part of Candler's Station.
12. An extension for completion of the "eastbound" access ramp onto U.S. Route 460 from the **Liberty University main campus** was granted on September 10, 1991. The City Council approved an amendment to the September 11, 1990 CUP petition of Old Time Gospel Hour / Liberty University to allow this extension.
13. An extension for the construction of the "eastbound" access ramp onto U.S. Route 460 from the **Liberty University main campus** was granted on March 24, 1992. The City Council approved an amendment to the September 10, 1991 CUP petition of Old Time Gospel Hour / Liberty University.
14. An extension for the construction of "eastbound" and "westbound" access ramps onto U.S. Route 460 to and from the **Liberty University main campus** were approved on July 14, 1992. The City Council approved an amendment to the March 24, 1992 CUP petition of Old Time Gospel Hour / Liberty University to establish the new deadlines.
15. On September 13, 1994 the City Council approved the petition of Candler's Mountain Development Company to rezone 400 acres on **Candler's Mountain Road** (East of U.S. Route 460) from R-C, Conservation District to R-2, Single-Family Residential District (Conditional) and B-3, Community Business District (Conditional) to allow the construction of a Planned Unit Development (PUD) and a Cluster Commercial Development (CCD).
16. An extension for the construction of the required access ramps was granted on September 27, 1994. The City Council approved an amendment to the July 14, 1992 CUP petition of Old Time Gospel Hour / Liberty University to further extend the time period.
17. On September 9, 1997 the City Council approved the petition of the Inn Group to rezone 4.3 acres at **1910 University Boulevard**, from R-C, Conservation District and I-2, Light Industrial District to B-3, Community Business District (Conditional) to allow the construction of a hotel. (Extended Stay)
18. On April 14, 1998 the City Council approved the CUP petition of Liberty University at **1971 University Boulevard** to allow the construction of four (4) new dormitories, a visitor's center, additions to the DeMoss building and associated parking areas.
19. On November 13, 2001 the City Council approved the CUP petition of Liberty University at **1971 University Boulevard** to allow the construction of a student center and associated parking.

20. On October 14, 2003 the City Council approved the CUP petition of Liberty University, TRBC, and GDT, CG1,LLC at **100 Mountain View Road** to allow a community recreation facility.

6. **SITE DESCRIPTION.** The subject property encompasses approximately 364 acres in the southwest corner of the City. Area A is the Liberty University main campus and is located at 1971 University Boulevard. Area B is located on Liberty Mountain Drive and is a mixture of open and wooded land. The area also will have 18 four-story apartment buildings with 267 units currently under construction that are to be used as student housing. Area C is the former Ericsson property and contains an 838,164 square foot building historically used as a manufacturing facility. Sanmina (SCI) most recently used the facility until August 2003. According to the petitioner, the building is vacant of all manufacturing uses with the exception of some warehouse space and Liberty University security. The area is primarily institutional or commercial in nature with some limited residential and industrial uses.
7. **PROPOSED USE OF PROPERTY.** The purpose of the rezoning and conditional use permit is to allow the use of the subject properties for university, K-12 school and church uses.
8. **TRAFFIC.** The City Traffic Engineer and Planning Division requested that a traffic study be conducted based on previous CUP conditions and the current rezoning and CUP requests. The petitioner contracted with Parsons Brinckerhoff and the latest version of the study was received by the City on November 13, 2003. (See *attachment LU Traffic Study*) Based upon a preliminary review of the traffic study, the City Traffic Engineer lists the following concerns:
1. The Route 501 on-ramp has the potential to backup onto Candler's Mountain Rd. (by Applebees). The submitted study does not address this concern and the likelihood of the ramp backing up was not analyzed. Based upon preliminary analyses, this ramp will back up onto Candler's Mountain Rd. The City Traffic Engineer recommends that dual left turn lanes be installed on Mayflower Drive and traffic signals on Candler's Mountain road (in front of River Ridge Mall) be optimized. The addition of the dual left turn lanes on Mayflower Drive will allow more "green" time to be allocated to Candler's Mountain Road, thus reducing the potential for queuing on the ramp.
  2. The submitted study recommends a traffic signal at Mountain View Rd. and Candler's Mountain Rd. The study also recommends two right turn lanes into the former Ericsson Property and one right turn lane to the 501 on-ramp. The study indicates that these right turn lanes are recommended but not required to achieve an adequate level of service. The City Traffic Engineer recommends that the three right turn lanes and the traffic signal be constructed immediately with the approval of the rezoning and conditional use permit petitions.
  3. The submitted study does not address the need for additional ramps onto U.S. Route 460. The City Traffic Engineer recommends that the "on" ramp to the westbound lanes of U.S. Route 460 be constructed based on safety issues and the need to alleviate traffic at the existing Wards Rd exit. A gated emergency access to the ramp is also recommended. An "on" and "off" ramp to and from the westbound lanes of U.S. Route 460 were suppose to be constructed with approval of a CUP for the construction of the Vines Center and stadium on March 14, 1989, with several extensions. The City Traffic Engineer has determined that the "off" ramp from U.S. Route 460 is no longer necessary, due to construction of University Boulevard by the City of Lynchburg.
  4. The submitted study does not address the need for any improvements to Liberty Mountain Drive due to the proposed student housing. The City Traffic Engineer recommends that at the time "Phase II" of the student housing is constructed, a traffic study be conducted analyzing the need for a eastbound "off" ramp from U.S. Route 460 to Liberty Mountain Drive or the installation of a traffic signal at the intersection of Candler's Mountain Road and Liberty Mountain Drive and other improvements to Liberty Mountain Drive.

The City Traffic Engineer will be in attendance at the November 26, 2003 Planning Commission meeting to discuss these items in detail.

9. **PARKING.** Section 35.1-25, of the Zoning Ordinance stipulates the parking requirements as defined by the number of students, staffing and seats in the sanctuary. In addition, the seating capacity of the

existing 12,000 seat stadium and 9,000 seat Vine Center yield a capacity of 21,000 for the combined use of these facilities. Based on the requirement of one space for every three seats, there would be a requirement of 7,000 spaces for these two uses. In 1989, the Board of Zoning Appeals approved a variance allowing 3,900 parking spaces (for the Vine Center and the stadium) and 571 parking spaces for the students. Using the 1989 ratio of requiring one space for each six students, the 1989 variance would allow 3,426 students. Based upon information provided by the petitioner the parking requirements for the proposed uses would be as follows:

USE	NUMBER	REQUIRED PARKING
Vine Center & Stadium	12000	<b>3900</b> (per 1989 variance)
University Total Enrollment	6747	<b>571</b> for 3426 students (per 1989 variance)
		<b>1328</b> for 3321 students (over 1989 variance)
University Employees	1057	<b>704</b>
LCA High School Students	450	<b>45</b>
LCA Employees	132	<b>88</b>
Sanctuary	5000	<b><u>1666</u></b>
		<b>8302 Total Required Parking Spaces</b>

The following table indicates available and proposed parking spaces:

AREA	PARKING SPACES
University Main Campus (Area A)	4911
Former Ericsson Property (Area C)	1690
Former Ericsson Property Gravel Lot (Area C)	349
18 Unit Apartment Complex (Area B)	720
Proposed Parking Lots (Area B)	<u>742</u>
Total	<b>8412</b>

The parking data indicates that with the construction of two additional parking areas adequate parking would be available. However, these parking calculations are based upon the current number of students and do not account for any increase in enrollment. The additional required parking should be accommodated by the parking areas associated with the proposed student housing. These parking areas are not counted in the numbers listed for available parking spaces. Section 35.1-25(f) of the Zoning Ordinance provides that where two or more uses occur on the same lot, that if the Planning Commission shall find by non-coinciding hours of parking use the Planning Commission may reduce the minimum parking requirements by a suitable amount, but not to exceed 20%. It is not recommended that the Planning Commission consider reducing the minimum parking requirements given the extensive use and hours of University, stadium, arena, LCA and church functions.

10. **STORM WATER MANAGEMENT.** A storm water management plan will be required for the proposed development because disturbed areas will exceed 1000 square feet. Stormwater management and Erosion & Sediment Control plans will be required for each development when submitted for final site plan approval.
11. **IMPACT.** The subject property, with the exception of Area B is currently developed as the former Ericsson facility and the University main campus. If Area B is carefully planned (*per the Comprehensive Plan*) with attention given to tree preservation and development limits on steep slopes, the proposed uses should also fit well into the area. The area is also a major gateway into the City and particular attention should be given to landscape design along U.S. Route 460, in and around parking lots and the new residences. The submitted site plan proposes the reforestation of areas that will be cleared due to construction. Although this is not the optimum design for the site, it is acceptable to the Planning Division.

The major impact from the proposed uses will be associated with traffic. If the suggested road improvements are made the impacts of the proposed uses and expansion of the University of up to 10,000 Students should be minimal. There has been significant discussion between the petitioner the Planning Division and Planning Commission regarding acceptable proffers. However, the unwillingness of the petitioner to proffer development in substantial compliance with the submitted site plan or to exclude certain uses hinders the ability of the Planning Division to support the rezoning of the property to a B-5, General Business District (Conditional) Zoning.

Based upon the proposed uses of a church, university and K-12 school uses the property at 100 Mountain View Road (Area C) does not need to be zoned to a B-5, General Business District Zoning. The proposed uses could be allowed by right or by a conditional use permit in a B-1, Limited Business District Zoning. The existing use of recreational facilities would be allowed as an accessory use to the university. (See Section 35.1-34, Limited Business District, B-1 of the Zoning Ordinance)

If the property is zoned to a B-5, General Business District Zoning with no restrictions on use, the petitioner would be free to develop the property for intense uses such as: Automobile Service Stations, Automobile Truck and Trailer sales with outside storage, Building Material Sales, Rebuilding and Retreading Establishments, Second Hand Stores and Storage Warehouses. (See Section 35.1-38, General Business District, B-5, of the Zoning Ordinance) The petitioner could also subdivide and sell portions of the property for these types of uses with no further input from the Planning Commission or the City Council.

Based upon the proposed uses of student housing and parking areas, the property located on Liberty Mountain Drive (Area B) also does not need to be zoned B-5, General Business District. Essentially proffers associated with a previous rezoning need to be amended that limit tree clearance and the development of a portion of the property for a retirement community uses only. The Planning Division recommends that the property remain B-3, Community Business District (Conditional) and that only the proffers be amended.

The Planning Division supports the proposed uses as submitted in the petition and agrees that they will establish an appropriate land use pattern for the area. The Planning Division can not support the "blanket" rezoning of the area to the most intense business zoning classification in the City. To do so would create the potential for unforeseen impacts that could result from the poor planning of the area.

Section 35.1-17, Amendments, section (b) states that "If, in the judgment of council, consideration should be given to changing a greater or lesser area than that proposed in a petition, council, on its own motion, shall refer to the commission, for report and recommendation, a proposal for changing a greater or lesser area than that contained in the petition. It shall be the duty of the city manager, or any official designated by him, to bring to the attention of council such instances where, in his opinion, a greater or lesser area shall be considered for change than that contained in a specific petition, and the planning commission may also recommend to council that a greater of lesser area be changed, or that the zoning be changed in any other respect differently from what was proposed in the petition."

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on August 19, 2003. (See attachment TRC comments)

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## VI. PLANNING DIVISION RECOMMENDATIONS

That the Planning Commission recommends to the City Council that the Future Land Use Map (FLUM) for the property located at 100 Mountain View Road be amended from "Employment 2" to "Institutional" and "Regional Commercial" as shown on the Proposed Land Use Map entitled "100 Mountain View Road" and dated November 20, 2003.

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That the Planning Commission recommends to the City Council that the property located on Liberty Mountain Drive (Area B) be rezoned from B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional) with the following suggested proffers:

1. Tree Clearance shall be minimized on the property. Any deforestation due to construction as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit shall be reforested and

replanted with a mixture of 25% evergreens and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees and shall be a minimum of 2.0 inches in caliper at time of planting. The reforestation plan shall be subject to approval by the City Urban Forester and City Planner.

2. Any new parking areas shall have landscaped islands every 10-15 spaces with shade type trees surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. Landscaping is subject to approval by the City's Urban Forester and the City Planner.

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That the Planning Commission recommends to the City Council that the property located at 100 Mountain View Road (Area C) be rezoned from I-2, Light Industrial District to B-1, Limited Business District.

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That the Planning Commission recommends to the City Council approval of the petition of Jerry Falwell Ministries for a conditional use permit for the properties located at 1971 University Boulevard (Area A), Liberty Mountain Drive (Area B) and 100 Mountain View Road (Area C) to allow university, and K-12 uses on the subject properties subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan entitled Master Plan for Rezoning and Conditional Use Permit as prepared by ACRES of Virginia, Inc., dated September 4, 2003 and received November 19, 2003.
2. The westbound "on" ramp from Liberty University to U.S. Route 460 shall be constructed within one year from the approval of this conditional use permit. The estimated cost of constructing the ramp shall be bonded immediately following approval of this conditional use permit. A gated emergency vehicle access shall be incorporated into the design of this ramp. Location and design of the ramp is subject to approval of the City Traffic Engineer and the Virginia Department of Transportation.
3. Prior to the issuance of building permits for Phase II of the student housing as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003 a traffic study shall be conducted to determine if an "off" ramp from the eastbound lanes of U.S. Route 460 or a traffic signal at the intersection of Candler's Mountain Road and Liberty Mountain Drive or other road improvements are needed.
4. Within one year of the approval of this conditional use permit the full cost of the following items shall be bonded and construction shall be completed within one year of the bond being submitted to the City of Lynchburg:
  - a. A traffic signal at the intersection of Mountain View Road and Candler's Mountain Road.
  - b. A right turn lane at the intersection of Mountain View Road and Candler's Mountain Road.
  - c. A right turn lane at the intersection of Ericsson Drive and Candler's Mountain Road.
  - d. The access between Liberty University and Ericsson Drive as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.
  - e. Vehicular and pedestrian access roads as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.
  - f. A right turn lane from Candler's Mountain Road to the Route 501 "on" ramp (by Applebees).

Location and design of all required traffic improvements is subject to approval by the City Traffic Engineer.

5. Prior to any portion of the property located at 100 Mountain View Road being used for K-12 uses a site plan showing the locations of recreation areas shall be submitted and approved by the City Planner.
6. The Liberty University Main Campus connection to Wards Road shall be relocated to Harvard Street as shown on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 within

one year of the approval of the conditional use permit. This condition is subject to the petitioner obtaining the approval of Norfolk Southern Railroad and any other property owners involved.

7. Any areas cleared due to the construction of the proposed student housing/apartments as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 shall be reforested and replanted with a mixture of 25% evergreen and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees. All trees shall be a minimum of 2.0 inches in caliper at time of planting. The reforestation plan shall be subject to approval by the City Urban Forester and City Planner.
8. Any new proposed student housing/apartment buildings shall be similar in character to the existing student housing on Liberty Mountain Drive.
9. Any new parking areas shall have landscaped islands every 10 -15 spaces with shade type trees and surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. Landscaping is subject to the approval of the City's Urban Forester and the City Planner.
10. Adequate parking shall be provided as required by the City of Lynchburg, Zoning Ordinance with the exception of the 1989 variance.
11. Student enrollment figures shall be based on numbers reported by the State Council of Higher Education for Virginia (SCHEV).
12. The recreation facility approved by the City Council on October 14, 2003 is allowed to remain as an accessory use to the University provided that all conditions of Resolution #R-03-170 are met.
13. The conditional use permit is valid for a 10,000 maximum student enrollment of Liberty University. Further review by the Planning Commission and the City Council of any expansion project is not required providing all conditions are met and student enrollment of Liberty University does not exceed 10,000 students. When student enrollment exceeds 10,000 students Liberty University shall be required to obtain a new conditional use permit from the Planning Commission and the City Council.
14. All renovations to the building will be in compliance with the International Building Code (IBC) as determined by the City's Building Official.

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. Doug Dejarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineering  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Karl Cooler, Building Commissioner  
Mr. Arthur L. Tolley, Zoning Official  
Ms. Judith C. Wiegand, Senior Planner  
Mr. Jerry Falwell Jr., Petitioner  
Mr. Thomas Brooks, Sr., Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**  
(see attached map)
2. **Vicinity Proposed Land Use**  
(see attached map)
3. **Site Plans**  
(see attached site plans)
4. **Jerry Falwell Ministries Rezoning / CUP Areas**  
(see attached map)
5. **ERA Analysis on Industrial Demand**  
(see attached memorandum)
6. **Liberty University Economic Impact Study**  
(see attached study)
7. **ERA Analysis of LU Economic Impact Study**  
(see attached memorandum)
8. **Proposed Revision to Future Land Use Map**  
(see attached map)
9. **City Council Approvals**  
(see attached map)
10. **Liberty University Traffic Study**  
(see attached study)
11. **Section 35.1-34, Limited Business District, B-1**  
(see attached Ordinance)
12. **Section 35.1-38, General Business District, B-5**  
(see attached Ordinance)
13. **Technical Review Committee Comments**  
(see attached comments)

Minutes from the November 26, 2003 Planning Commission meeting  
These minutes have not been reviewed or approved by the Planning Commission

Mr. Tom Martin, City Planner, explained that this petition was a three step process. First, he said, an amendment to the Comprehensive Plan and the Future Land Use Map (FLUM) would be needed to allow institutional uses on the former Ericsson property. He continued by explaining that the second step of the process would be to rezone areas B and C indicated on the site plan map. He said the third step of this process would be the approval of a conditional use permit to allow university uses and a K-12 school on the former Ericsson property and the area labeled B, and to amend the conditions of a CUP dated 2001 for the Liberty University main campus. He said the Planning staff was recommending approval of the conditional use permit with minor changes to the conditions outlined in the report.

Chair Dahlgren suggested that the Commission act on each of the three portions of this request separately.

Mr. Bill McRorie, attorney for the Thomas Road Baptist Church (TRBC), made one clarification. He said the Jerry Falwell Ministries should be changed to Thomas Road Baptist Church, which was the main umbrella for the individual ministries.

- a. Consideration of amending the Future Land Use Map (FLUM) for an area in the vicinity of 100 Mountain View Drive from "Employment 2" to "Institutional" and "Regional Commercial".

Mr. Martin said the estimated 1.15 million square feet of Industrial space noted in the current Comprehensive Plan had been updated to 1.1 million square feet of Industrial space actually needed by the City. He said the City felt this was an acceptable piece of property for Liberty University's proposed expansion.

Commissioner Wilkins said this was a healthy move that needed to be considered.

After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

"That the Planning Commission recommends to the City Council that the Future Land Use Map (FLUM) for the property located at 100 Mountain View Road be amended from "Employment 2" to "Institutional" and "Regional Commercial" as shown on the Proposed Land Use Map entitled "100 Mountain View Road" and dated November 20, 2003."

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0

- b. Petition of Jerry Thomas Road Baptist Church to rezone approximately 235 acres at 100 Mountain View Road and Liberty Mountain Drive from I-2, Light Industrial District and B-3, Community Business District (Conditional) to B-5, General Business District (Conditional).
- c. Petition of Jerry Falwell Ministries for a conditional use permit at 100 Mountain View road, 1971 University Boulevard and Liberty Mountain Drive to allow university and K-12

Mr. Jerry Falwell, Jr., attorney for the petitioner, said they would like to define the term "substantial compliance". He suggested that for the CUP for 1971 University Boulevard, Liberty Mountain Drive, and 100 Mountain View Road for university and K-12 uses they retain Condition 1, stating that the property should be developed in substantial compliance with the site plan, but add the phrase "any improvements that constitute church and school uses shall be deemed to be in substantial compliance with the site plan." He said if this was included as a condition to the CUP rather than a proffer, it might not apply to the property if Thomas Road never took advantage of the CUP and occupied the building. He said if that statement was submitted as a proffer on parcel C, any uses other than the church and school would have to go through Planning Commission and City Council to change the zoning. Mr. Falwell discussed the West Bound ramp. He said if

VDOT was willing to allow the West bound ramp be constructed in the same location as the emergency access road they would be more willing to fund the construction. He said the proposed ramp would merge with the ramp leading from Route 460 to Route 29 North, Wards Road. He suggested that if they were responsible for the construction of the ramp, then they wanted to request that the other items connected to the retail center, such as signal lights and turn lanes be deferred until the shopping center developer presented his plan for the rezoning.

Mr. Harter, City Traffic Engineer, told Mr. Falwell that one way they might be able to accomplish this was to make the first entrance into Ericsson, across from Applebees, a right in, right out only, until the shopping center was built. He said this type of arrangement might make sense for everybody.

Commissioner Echols asked how this coincided with the railroad.

Mr. Falwell said the railroad project was being worked on long before they came to the City about the Ericsson property, and will be followed through whether or not any of their requests at this meeting are approved or not. He said dealing with the railroad representatives was the hold up in this plan.

Mr. Gerry Harter, City Traffic Engineer, addressed the Commission. Mr. Harter said in 1989 there were three ramps scheduled to be constructed. One ramp was the East bound on-ramp, which had been constructed, a West bound on-ramp, and a bridge, which will not be constructed because the design is now antiquated. He said based on the new interchange a ramp would merge with Route 460 and vehicles could stay on the merge ramp and get off at Route 29 on Wards Road. He added that the ramp would take some of the traffic off the existing Wards Road entrance. He said in a recent traffic count, between 600-800 cars per day were coming from the Liberty University campus, traveling to the Harvard Street light, and making "U" turns to travel back up Wards Road. Mr. Harter said they were hoping that adding the ramp would eliminate that "U" traffic. He said there was always a concern that the only way to get off campus in case of an emergency was the Wards Road entrance or the main campus entrance. He said that adding this ramp would not eliminate the need for emergency access to campus. He noted that he had talked to a small portion of VDOT officials who were in favor of the ramp location. Mr. Harter said VDOT had already approved the emergency access.

Commissioner Worthington asked how long it would take to get approval for the ramp and the length of the proposed ramp.

Mr. Harter said since the ramp would have limited access, they should not have to go through the interchange requirements, and should receive approved in approximately one year. He added that the ramp would be approximately 1,000 feet in length.

Mr. Martin said it would be helpful to get something in writing from the local VDOT office concerning the ramp location.

Chair Dahlgren asked about delaying the traffic lights and ramps on the retail portion of the petition.

Mr. Harter said there was concern with safety at the intersection due to traffic associated with the Lynchburg Christian Academy. However, he said, since the retail portion of the development would probably drive 70-80% of the installation of the signal, the City would be satisfied with a right in, right-out traffic flow for now, and would not require TRBC to install signal lights.

Chair Dahlgren asked if it was safe to say that you can clearly differentiate between those items that should be done prior to the retail and those that could be delayed until the retail portion goes in.

Mr. Harter said yes, he could differentiate between the two and they could be documented.

Commissioner Moore asked what percentage of traffic would exit back out the same intersection and what percentage would continue down to the Candler's Station intersection. He also asked how much of a hazard it would be to leave the right-out lane, and how much traffic would be backed up at the intersection of Candler's Station that would require having the right-out.

Mr. Harter said that probably 60-70% of the people would make a right turn. He said they would probably push for a concrete island. He said if the intersection is not constructed correctly, there will be people who will make a "U" turn and proceed down the ramp at Applebees.

Commissioner Pulliam asked if there were any future plans to keep traffic from backing upon to Rt. 29.

Mr. Harter said this is a City/VDOT situation, not a TRBC situation. He said part of the road had plenty of capacity, but it does get a little tight in other areas.

Mr. Falwell said in Condition 4, Items A and B had already been done, and suggested that Condition 4, Item C be made two lanes in with no right turn.

Mr. Harter and Mr. Falwell agreed that in Item 4-C could be modified and 4-F could be postponed until the retail portion was built.

Chair Dahlgren asked about Area B.

Mr. Harter explained that VDOT thought a ramp leading off Route 460 to the townhouse development might be a good idea, and the City concurred with that idea. Mr. Harter said they suggested that this be reviewed when Phase II of the townhouses construction begins. He suggested that they remove Item 3 and rely on the 10,000 student benchmark. He asked that Item 13 cover.

Mr. Martin explained that the City's concern was not necessarily with the total enrollment, but with the number of students on the East side of Route 460 having to access the other side. He added that they were more comfortable with tying that condition with the construction of Phase II apartments and not the number of students in the University.

Mr. Harter suggested that the revised Condition 4, Item C would read as follows:

"Applicant will submit Letter of Credit to build right turn lane at the time of CUP approval. Within one year of CUP approval, the City Traffic Engineer will make the determination of whether a right turn into the site of existing intersection is necessary. If the City Traffic Engineer deems it necessary, applicant will construct right turn lane at location to be determined."

Mr. Harter said once they get up and running in the Ericsson building, the City will know if they need to construct a right turn lane or not.

Mr. Martin said the bond would be in the amount of \$15,000, and read the revised Condition 4, Item C:

"The petitioner will submit a Bond to build right turn lane at the time of CUP approval. Within one year of CUP approval, the City Traffic Engineer will make the determination of whether a right turn into the site at existing signal is necessary."

Mr. Martin addressed the Planning Commission saying they needed to approve the rezoning before the CUP could occur. However, he said, since they were currently discussing the CUP conditions they should finish this discussion then go back to the Rezoning.

Mr. Falwell reviewed the following conditions:

- Condition 5: Acceptable to TRBC.
- Condition 6: Condition had already been discussed.
- Condition 7: Worked with the Urban Forester and other City officials. Last sentence has been reworded.
- Condition 8: The word "character" would be changed to "appearance".
- Condition 9: The last sentence has been changed.

Mr. Falwell they needed to clarify Condition 1 to make it consistent with Condition 13. He suggested adding the phrase: "any improvements that constitute university or church uses shall be deemed to be in substantial compliance". He said the idea was to give the City the right to review any improvements that were not connected with TRBC.

Chair Dahlgren asked Mr. Falwell to clarify his last statement.

Mr. Falwell said the City was concerned that TRBC might sell a portion of the property to a company outside of the scope of what the Commission was considering.

He said if they did sell part of the property, the City wanted the purchaser come back to the Commission and Council for approval. He said they did want the right to lease out office space if they have vacant space in the building. He explained by saying that the City was suggesting B-1 zoning and TRBC was suggesting B-3 zoning. He said if the site was developed in substantial compliance, then that included church and school uses only.

Commissioner Worthington said substantial compliance means use, not what the property would look like.

Mr. Falwell said Mr. Martin made a good point in a recent meeting in saying that substantial compliance for this property should probably mean something different than it does for a piece of property in a neighborhood. He said the point of having it tied to the 10,000 students was so they did not have to go back through the City process every time the grounds crew on campus decided to put a utility shed on the back side of the property.

Mr. Martin said that was an accurate statement, but he added that the City would like to see housing in the areas designated for housing, the K-12 school in the area designated K-12 and the church in the area designated for the church. He said if TRBC decided to move the uses around, the conditions written may not apply any more. He said the City would like to know that certain areas are limited for housing and so forth.

Commissioner Moore agreed with Mr. Martin. He said if the petitioner made any change they should come back so the Commission and Council could review the project. He said he was OK with the petition as it was now.

Commissioner Echols asked if there was any date anticipated to reach that enrollment.

Mr. Falwell said they might reach 10,000 students sometime in this decade.

Chair Dahlgren said he agreed with Commissioner Moore. He said if they could not come to a conclusion to limit the use of the property without shuffling things around, then an alternative was B-1. He said he did not think B-5 was appropriate, but thought there were some areas open for discussion.

Commissioner Worthington said Commissioner Moore articulated his own feelings, as well. He said it was important that the general areas were where the Commission agreed it should be.

Chair Dahlgren said if the church was constructed in a different location, then the traffic pattern would be completely changed. He said that type of change would effect the general population.

Mr. Martin said the petitioner would not be excluded from normal site plan and building code reviews. He said what they were talking about was the concept and placement of the types of uses.

Mr. Martin said they were jumping to the rezoning petition but needed to continue discussing the CUP. He said if the conditions were acceptable to the Commission, then they could move on to the rezoning.

Mr. Falwell said they were OK with the Conditions for the CUP.

REZONING:

## AREA A:

Mr. Martin suggested that they look at Area B first as it should be the easiest. He said the proffers were voluntary submitted by the petitioner for Area B to be rezoned to B-3 Conditional instead of B-5 Conditional. He noted that the areas cleared to build the Phase II apartments would be replanted with 50 trees per acre, 75 percent deciduous, 25 percent evergreen, and 2 inches in caliper. He added that he and the City's Urban Forester would review the reforestation plan for the location and type of trees. Mr. Martin said that the proffer concerning landscaping of the parking area was standard, and the proffers were acceptable by the City.

Mr. Falwell said they were fine with Area B.

## AREA C

Mr. Martin said the staff was not comfortable with Area C. He explained that the rezoning application requested B-5 Conditional. He said the Planning staff felt that there were too many unforeseen impacts for the 80+ acre site to be zoned to the most intensive classification. He said the City recommended B-1 zoning, which would limit the types of uses to primarily office use, which would still allow for the uses that were originally requested by the petitioner.

Mr. Falwell explained that he, Mr. Martin, and Ms. Rachel Flynn, Director of Community Planning and Development, had been discussing whether TRBC should request B-1 zoning or B-3 zoning. He said if they requested B-3 zoning, they would include a proffer stating that the property could only be developed in substantial compliance with the site plan, and any proposed retail use would have to go through the required approval process of the City. He said TRBC would not have to come back to the City because of Condition 13 in the CUP.

Commissioner Worthington asked Mr. Falwell his objection to B-1 zoning with Condition 13, and then asked if they would rather have the property rezoned to B-3 or B-5.

Mr. Falwell said they did not have an objection to B-1 zoning with the condition. He said they would rather have the property zoned B-3, not B-5. He explained that B-3 would be better for appraisal purposes, even if it was restricted.

Mr. Martin said he would like to receive something in writing and have a chance to review it with Ms. Flynn. He said he might suggest that the Planning Commission continue the public hearing and then delay voting until the staff had a chance to study Mr. Falwell's suggestion.

Mr. Falwell asked if he and the other TRBC's representatives could have a minute to discuss this issue among themselves. He said it may not be a big enough issue to have to delay the Commissioner's vote.

After a private discussion, Mr. Falwell told the Commission that the TRBC's representatives had decided to continue the request for a B-1 rezoning of the subject property. He said TRBC's concern was to be able to rent space inside of the building if they wanted to, so a B-1 zoning would take care of that.

Commissioner Echols asked if they had considered allowing telecommunication towers on the property.

Mr. Falwell said they did not need any telecommunication towers on the property.

Mr. Martin told Mr. Falwell if they were considering warehouses, which were allowed in B-1, they would have to meet the building code. But, he said, as long as the warehouses were for university or church use, then he thought they would be acceptable.

Chair Dahlgren asked if there were any additional comments or questions anyone had before they moved on.

Commissioner Worthington said he was concern that a telecommunication tower would be installed on the site.

Chair Dahlgren said cell towers were allowed in B-1, but the City did have an ordinance concerning cell towers.

Chair Dahlgren asked how they should go about voting on these petitions.

Mr. Martin said they needed to continue with the public hearing. He said there would be three separate motions, one for rezoning Area B with the submitted proffers, one for rezoning Area C, and one for the Conditional Use Permit with the amendments.

Commissioner Flint asked about the grade of the land in Area B. He asked if the land had over a 25 percent grade and if some of the buildings were on land steeper than 25 percent.

Mr. Tommy Brooks, Sr. said the slope was less than 25 percent. He said the areas showing buildings and parking were slopes also less than 25 percent. He clarified that Condition 1 stated that the Master Plan for Rezoning and Conditional Use Permit date was not September 4, 2003, but actually November 4, 2003.

Mr. Martin explained that for Condition 2 he thought it was necessary to have a map showing the general location of that ramp with the approximate location. He said Condition 2 would reference the map titled "Proposed Location of On-Ramp to U.S. Route 460 West", dated November 26, 2003, as amended.

Commissioner Worthington made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

"That the Planning Commission waive the 21-day submittal requirement of Section 35.1-43.1 of the Zoning Ordinance to accept proffers submitted by Thomas Road Baptist Church for the property on Liberty Mountain Drive."

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0

Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission recommends to the City Council that the property located on Liberty Mountain Drive (Area B) be rezoned from B-3, Community Business District (Conditional) to B-3, Community Business District (Conditional) with the following suggested proffers:

1. Tree clearance shall be minimized on the property. Any deforestation due to construction as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit shall be reforested and replanted with a mixture of 25% evergreens and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees and shall be a minimum of 2.0 inches in caliper at time of planting. The reforestation plan shall be subject to approval by the City Urban Forester and City Planner.
2. Any new parking areas shall have landscaped islands every 10-15 spaces with shade type trees surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. Landscaping is subject to approval by the City's Urban Forester and the City Planner."

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0

Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission recommends to the City Council that the property located at 100 Mountain View Road (Area C) be rezoned from I-2, Light Industrial District to B-1, Limited Business District.”

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0

Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of Thomas Road Baptist Church for a conditional use permit for the properties located at 100 Mountain View Road, 1971 University Boulevard and Liberty Mountain Drive to allow university and K-12 uses on the subject properties subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan entitled Master Plan for Rezoning and Conditional Use Permit as prepared by ACRES of Virginia, Inc., dated November 4, 2003 and received November 19, 2003.
2. The westbound “on” ramp from Liberty University to U.S. Route 460 shall be constructed within one year from the approval of this conditional use permit. The estimated cost of constructing the ramp shall be bonded immediately following approval of this conditional use permit. A gated emergency vehicle access shall be incorporated into the design of this ramp. Location of the “on” ramp from Liberty University to U.S. Route 460 shall be as shown on “Proposed Location of “on” ramp to U.S. Route 460 West” dated 11/26/03. Final design is subject to approval by the City Traffic Engineer and the Virginia Department of Transportation.
3. Prior to the issuance of building permits for Phase II of the student housing as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003 a traffic study shall be conducted by the petitioner to determine if an “off” ramp from the eastbound lanes of U.S. Route 460 or a traffic signal at the intersection of Candler Mountain Road and Liberty Mountain Drive or other road improvements are needed. This traffic study is subject to the approval of the City Traffic Engineer. Any needed improvements will be installed by the petitioner prior to the construction of any portion of the Phase II apartments.
4. Within one year of the approval of this conditional use permit the full cost of the following items shall be bonded and construction shall be completed within one year of the bond being submitted to the City of Lynchburg:
  - a. Mountain View Road shall be converted to “right in” and “right out”.
  - b. A right turn lane at the intersection of Mountain View Road and Candler Mountain Road.
  - c. The petitioner will submit a \$15,000 bond to build a right turn lane at time of CUP approval. Within one year of CUP approval, the City Traffic Engineer will make a determination of whether a right turn lane into the site at the existing signal is still needed.
  - d. The access between Liberty University and Ericsson Drive as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.
  - e. Vehicular and pedestrian access roads as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.

Location and design of all required traffic improvements is subject to approval by the City Traffic Engineer.

5. Prior to any portion of the property located at 100 Mountain View Road being used for K-12 uses, a site plan showing the locations of recreation areas shall be submitted to and approved by the City Planner.
6. The Liberty University Main Campus connection to Wards Road shall be relocated to Harvard Street as shown on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003

within one year of the approval of this conditional use permit. This condition is subject to the petitioner obtaining the approval of Norfolk Southern Railroad and any other property owners involved.

7. Any areas cleared due to the construction of the proposed student housing / apartments as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 shall be reforested and replanted with a mixture of 25% evergreen and 75% deciduous at a rated of 50 trees per acre. All deciduous trees shall be shade type trees. All trees shall be a minimum of 2.0 inches in caliper at time of planting. The City's Urban Forester and City Planner shall approve the reforestation plan as to location and type of trees to ensure compliance with the submitted proffers associated with the rezoning.
8. Any new proposed student housing / apartment buildings shall be similar in appearance to the existing student housing on Liberty Mountain Drive.
9. Any new parking areas shall have landscaped islands every 10 – 15 spaces with shade type trees and surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. The City's Urban Forester and City Planner shall approve the landscaping plan as to the location of and type of trees and shrubs.
10. Adequate parking shall be provided as required by the City of Lynchburg, Zoning Ordinance with the exception of the 1989 variance.
11. Student enrollment figures shall be based on numbers reported by the State Council of Higher Education for Virginia (SCHEV).
12. The recreation facility approved by the City Council on October 14, 2003 is allowed to remain as an accessory use to the University provided that the following conditions are met:
  - a. Appropriate emergency vehicle access shall be provided to "all" practice fields as determined by the Fire Marshals Office and designated on the final approved site plan. Recreation fields without appropriated emergency vehicle access as determined by the Fire Marshal, shall not be used for any recreation purpose until the required access is constructed.
  - b. A fertilization schedule and application rate will be submitted to the Planning Division for review by the Environmental Planner for any "green" areas associated with the golf driving range on a yearly basis. The petitioner shall comply with any changes to the fertilization plan that the Environmental Planner may require.
  - c. The golf driving range will be constructed in a manner so that golf balls will not be hit toward parking areas, or practice filed areas, and will be contained entirely within the property boundaries. Boundaries of the golf driving range shall be designated on the final approved plan in such location as approved by the City Planner.
13. The conditional use permit is valid for a 10,000 maximum student enrollment of Liberty University. Further review by the Planning Commission and the City Council of any expansion project is not required providing all conditions are met and student enrollment of Liberty University does not exceed 10,000 students. When student enrollment exceeds 10,000 students, Liberty University shall be required to obtain a new conditional use permit from the Planning Commission and the City Council.
14. All renovations to the building will be in compliance with the International Building Code (IBC) as determined by the City's Building Official.
15. This CUP will supersede all previous CUP's as related to Areas "A, B & C" as shown on the map entitled "Jerry Falwell Ministries, Rezoning / CUP Areas", dated November 26, 2003.

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0

ORDINANCE

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the Future Land Use Map of the City of Lynchburg, Virginia, be amended to conform to a map entitled "100 Mountain View Road, Prepared Land Use Plan," dated November 20, 2003, prepared by the Community Planning and Development Department, changing an area from "Employment 2" to "Institutional" and "Regional Commercial".

AND, the Director of Community Planning and Development shall forthwith cause the Future Land Use Map of the City of Lynchburg, Virginia, to be amended in accordance with said map.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM B-3, COMMUNITY BUSINESS DISTRICT (CONDITIONAL), TO B-3, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, That in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.\_\_\_\_\_, which section shall read as follows:

Section 35.1-76.\_\_\_\_\_. Change of a certain area from B-3, Community Business District (Conditional) to B-3 Community Business District (Conditional).

The area embraced within the following boundaries . . .

Legal Description. (TAX MAP 260-1-1) (23.169Ac.)

Commencing at the Point of Beginning; thence North 32°03'50" East, a distance of 310.71 feet to the beginning of a curve tangent to said line; thence northeasterly a distance of 373.78 feet along the curve concave to the southeast, having a radius of 1884.86 feet and a central angle of 11°21'44"; thence North 48°17'16" East, a distance of 224.19 feet; thence North 39°40'48" East, a distance of 99.75 feet; thence North 64°20'06" East, a distance of 138.20 feet; thence South 72°16'11" East, a distance of 117.51 feet; thence north 63°46'22" East, a distance of 220.46 feet; thence North 39°30'25" East, a distance of 206.62 feet; thence North 22°39'24" East, a distance of 160.00 feet; thence North 12°47'27" East, a distance of 116.73 feet; thence North 22°20'45" East, a distance of 14.22 feet; thence South 06°44'05" West, a distance of 111.33 feet; thence North 84°59'05" East, a distance of 126.00 feet; thence South 51°00'55" East, a distance of 140.00 feet; thence South 70°15'55" East, a distance of 78.00 feet; thence South 21°15'55" East, a distance of 85.00 feet; thence South 38°00'05" West, a distance of 1897.16 feet; thence North 44°30'03" West, a distance of 628.45 feet to the Point of Beginning. Containing 23.169 ACRES.

Legal Description. (TAX MAP 260-1-5) (20.894Ac.)

Commencing at the Point of Beginning; thence South 52°19'29" East, a distance of 435.27 feet to a point of cusp on a curve concave to the southeast having a radius of 1170.92 feet and a central angle of 37°06'16" and being subtended by a chord which bears South 25°30'35" West 745.10 feet; thence southwesterly and southernly along said curve, a distance of 758.28 feet to a point of cusp on a curve, from which the radius point bears South 79°06'52" East; thence southernly a distance of 50.69 feet along the arc of said curve concave to the east having a radius of 1872.64 feet and a central angle of 1°33'04"; thence South 08°46'42" West, a distance of 8.70 feet to the beginning of a curve concave to the east having a radius of 990.68 feet and a central angle of 8°09'24" and being subtended by a chord which bears South 04°38'44" West 140.92 feet; thence southernly along said curve, a distance of 141.04 feet to a point of cusp on a curve, from which the radius point bears North 87°16'13" East; thence southernly a distance of 130.43 feet along the arc of said curve concave to the east having a radius of 997.23 feet and a central angle of 7°29'37" to a point of cusp on a curve, from which the radius point bears North 78°50'32" East; thence southernly a distance of 17.11 feet along the arc of said curve concave to the east having a radius of 997.00 feet and a central angle of 0°59'00" to a point of reverse curvature; thence southernly, southwesterly, westerly and northwesterly a distance of 57.48 feet along the arc of said curve concave to the northwest having a radius of 25.00 feet and a central angle of 131°44'31" to a point of reverse curvature; thence northwesterly and westerly a distance of 45.54 feet along the arc of said curve concave to the south having a radius of 60.00 feet and a central angle of 43°29'02" to a point of compound curvature; thence westerly, southwesterly, southernly and southeasterly a distance of 143.48 feet along the arc of said curve concave to the east having a radius of 60.00 feet and a central angle of 137°00'51" to a point of reverse curvature; thence southeasterly a distance of 32.57 feet along the arc of said curve concave to the southwest having a radius of 50.00 feet and a central angle of 37°19'32" to a point of cusp; thence South 89°55'15" West, a distance of 378.85 feet; thence North 85°01'28" West, a distance of 323.83 feet; thence North 66°10'16" West, a distance of 189.52 feet; thence North 35°17'12" West, a distance of 107.04 feet; thence North 38°42'51" East, a distance of 1008.62 feet; thence North 38°00'05" East, a distance of 584.38 feet to the Point of Beginning. Containing 20.894 ACRES.

Legal Description. (TAX MAP 258-1-1) (61.659Ac.)

Commencing at the Point of Beginning; thence North 38°00'05" East, a distance of 1312.78 feet; thence North 21°15'55" West, a distance of 85.00 feet; thence North 70°15'55" West, a distance of 78.00 feet; thence North 51°00'55" West, a distance of 140.00 feet; thence South 84°59'05" West, a distance of 126.00 feet; thence North 06°44'24" East, a distance of 111.33 feet; thence North 22°20'45" East, a distance of 255.89 feet; thence North 42°27'30" East, a distance of 288.44 feet; thence North 44°27'23" East, a distance of 278.05 feet; thence North 41°39'06" East, a distance of 180.57 feet; thence North 33°07'21" East, a distance of 49.85 feet; thence North 47°23'26" East, a distance of 159.82 feet; thence North 36°59'45" East, a distance of 125.78 feet; thence North 43°22'40" East, a distance of 399.88 feet; thence South 48°14'38" East, a distance of 510.44 feet; thence North 43°21'21" East, a distance of 200.00 feet; thence North 40°10'10" West, a distance of 62.11 feet; thence North 49°49'50" East, a distance of 232.57 feet; thence North 18°59'12" East, a distance of 112.63 feet; thence North 87°32'42" East, a distance of 14.46 feet; thence South 17°05'52" West, a distance of 138.61 feet; thence South 01°38'32" West, a distance of 200.50 feet; thence South 14°42'08" East, a distance of 177.20 feet; thence South 17°12'08" East, a distance of 152.64 feet; thence South 26°20'52" West, a distance of 162.70 feet; thence South 61°53'43" West, a distance of 61.36 feet; thence South 63°14'48" West, a distance of 56.70 feet; thence South 73°55'33" West, a distance of 58.31 feet; thence South 56°27'29" West, a distance of 51.42 feet; thence South 47°32'10" West, a distance of 50.16 feet; thence South 38°23'18" West, a distance of 100.32 feet; thence South 25°17'17" West, a distance of 52.71 feet; thence South 20°48'32" West, a distance of 257.50 feet to the beginning of a curve concave to the southeast having a radius of 979.93 feet and a central angle of 10°25'41" and being subtended by a chord which bears South 23°30'35" West 178.11 feet; thence southwesterly and southerly along said curve, a distance of 178.35 feet; thence South 18°17'44" West tangent to said curve, a distance of 343.56 feet to the beginning of a curve tangent to said line; thence southerly and southwesterly a distance of 453.68 feet along the curve concave to the northwest, having a radius of 793.51 feet and a central angle of 32°45'30"; thence South 51°03'11" West tangent to said curve, a distance of 1237.65 feet to the beginning of a curve concave to the southeast having a radius of 1170.92 feet and a central angle of 6°59'35" and being subtended by a chord which bears South 47°33'30" West 142.82 feet; thence southwesterly along said curve, a distance of 142.91 feet; thence North 52°19'29" West, a distance of 435.27 feet to the Point of Beginning. Containing 61.659 ACRES.

Legal Description.

Commencing at the Point of Beginning; thence South 02°27'50" East, a distance of 114.47 feet; thence South 78°50'37" West, a distance of 30.03 feet; thence North 43°59'11" West, a distance of 225.00 feet to a point of cusp on a curve concave to the southeast having a radius of 1402.39 feet and a central angle of 3°33'23" and being subtended by a chord which bears North 56°13'17" East 87.03 feet; thence northeasterly along said curve, a distance of 87.04 feet; thence North 54°08'41" East, a distance of 74.38 feet; thence South 56°34'45" East, a distance of 47.88 feet to the beginning of a curve concave to the west having a radius of 1612.02 feet and a central angle of 3°49'32" and being subtended by a chord which bears South 04°22'40" East 107.61 feet; thence southerly along said curve, a distance of 107.63 feet to the Point of Beginning. Containing 0.601 ACRES, more or less.

. . . is hereby changed from B-3 Community Business District (Conditional), to B-3, Community Business District (Conditional), subject to the conditions setout herein below which were voluntarily proffered in writing by the owner, namely: Liberty University, Inc., Freedom Liberty Partners, and Bostic Development of Lynchburg, LLC, to wit:

1. Tree clearance shall be minimized on the property. Any deforestation due to construction as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit shall be reforested and replanted with a mixture of 25% evergreens and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees and shall be a minimum of 2.0 inches in caliper at time of planting. The City's Urban Forester and City Planner shall approve the reforestation plan as to location and type of trees to ensure compliance with these proffers.

2. Any new parking areas shall have landscaped islands every 10 – 15 spaces with shade type trees surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. The City's Urban Forester and City Planner shall approve the landscaping plan as to location and type of trees and shrubs to ensure compliance with these proffers.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

## ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM I-2, LIGHT INDUSTRIAL DISTRICT TO B-1, GENERAL BUSINESS DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, That in order to promote the public necessity, convenience, general welfare, and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.\_\_\_\_, which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area from I-2, Light Industrial District to B-1, General Business District .

The area embraced within the following boundaries . . .

Parcels 1,2, & 3

Commencing at the Point of Beginning; thence North  $38^{\circ}27'21''$  East, a distance of 284.43 feet; thence South  $54^{\circ}43'08''$  East, a distance of 347.09 feet; thence South  $25^{\circ}12'44''$  East, a distance of 32.68 feet; thence South  $35^{\circ}16'52''$  West, a distance of 131.44 feet; thence South  $54^{\circ}27'28''$  East, a distance of 263.24 feet; thence South  $70^{\circ}52'49''$  East, a distance of 46.54 feet; thence South  $54^{\circ}07'06''$  East, a distance of 150.94 feet; thence North  $36^{\circ}05'15''$  East, a distance of 1149.22 feet; thence South  $05^{\circ}41'17''$  West, a distance of 396.49 feet to the beginning of a curve concave to the east having a radius of 5754.58 feet and a central angle of  $2^{\circ}02'13''$  and being subtended by a chord which bears South  $05^{\circ}09'08''$  West 204.57 feet; thence southerly along said curve, a distance of 204.58 feet; thence South  $04^{\circ}08'01''$  West tangent to said curve, a distance of 408.90 feet to the beginning of a curve tangent to said line; thence southerly a distance of 337.43 feet along the curve concave to the west, having a radius of 1120.92 feet and a central angle of  $17^{\circ}14'52''$ ; thence South  $21^{\circ}22'53''$  West tangent to said curve, a distance of 79.17 feet to the beginning of a curve tangent to said line; thence southerly and southeasterly a distance of 142.40 feet along the curve concave to the east, having a radius of 115.95 feet and a central angle of  $70^{\circ}22'01''$ ; thence South  $49^{\circ}00'04''$  East, a distance of 112.91 feet; thence South  $49^{\circ}04'45''$  East, a distance of 60.43 feet; thence South  $42^{\circ}01'06''$  West, a distance of 6.21 feet; thence South  $47^{\circ}09'11''$  East, a distance of 242.12 feet; thence South  $07^{\circ}05'18''$  East, a distance of 100.66 feet to the beginning of a curve concave to the southeast having a radius of 720.57 feet and a central angle of  $18^{\circ}25'19''$  and being subtended by a chord which bears South  $31^{\circ}48'19''$  West 230.68 feet; thence southwesterly along said curve, a distance of 231.68 feet; thence South  $22^{\circ}35'39''$  West tangent to said curve, a distance of 161.88 feet; thence South  $26^{\circ}22'14''$  West, a distance of 53.14 feet to the beginning of a curve concave to the northwest having a radius of 620.00 feet and a central angle of  $25^{\circ}30'15''$  and being subtended by a chord which bears South  $37^{\circ}04'48''$  West 273.71 feet; thence southwesterly along said curve, a distance of 275.98 feet; thence South  $48^{\circ}05'39''$  West, a distance of 9.74 feet; thence South  $52^{\circ}40'05''$  West, a distance of 150.48 feet; thence South  $48^{\circ}05'39''$  West, a distance of 40.26 feet to the beginning of a curve tangent to said line; thence southwesterly a distance of 66.58 feet along the curve concave to the southeast, having a radius of 744.57 feet and a central angle of  $5^{\circ}07'25''$ ; thence South  $88^{\circ}06'45''$  West, a distance of 40.67 feet; thence South  $88^{\circ}06'45''$  West, a distance of 25.01 feet; thence North  $46^{\circ}43'06''$  West, a distance of 150.91 feet; thence North  $50^{\circ}47'06''$  West, a distance of 179.76 feet to the beginning of a curve concave to the south having a radius of 1086.74 feet and a central angle of  $41^{\circ}41'15''$  and being subtended by a chord which bears North  $73^{\circ}12'15''$  West 773.37 feet; thence northwesterly and westerly along said curve, a distance of 790.69 feet to a point of compound curvature; thence westerly and southwesterly a distance of 408.31 feet along the arc of said curve concave to the south having a radius of 1086.74 feet and a central angle of  $21^{\circ}31'38''$ ; thence South  $64^{\circ}25'29''$  West tangent to said curve, a distance of 613.50 feet to the beginning of a curve concave to the north having a radius of 527.96 feet and a central angle of  $17^{\circ}48'49''$  and being subtended by a chord which bears South  $73^{\circ}17'58''$  West 163.49 feet; thence southwesterly and westerly along said curve, a distance of 164.15 feet to a point of cusp; thence North  $25^{\circ}47'21''$  East, a distance of 1143.20 feet; thence North  $31^{\circ}15'07''$  East, a distance of 300.00 feet; thence North  $32^{\circ}54'05''$  East, a distance of 66.02 feet; thence South  $57^{\circ}05'55''$  East, a distance of 20.00 feet to the beginning of a curve concave to the southeast having a radius of 24353.17 feet and a central angle

of 2°06'00" and being subtended by a chord which bears North 34°02'29" East 892.54 feet; thence northeasterly along said curve, a distance of 892.59 feet to a point of cusp; thence North 58°04'24" West, a distance of 100.00 feet to the Point of Beginning. Containing 82.712 acres.

Legal Description. (TAX MAP 131-2-1)(1.846Ac.)

Commencing at the Point of Beginning; thence North 27°52'55" East, a distance of 144.53 feet to the beginning of a curve concave to the north having a radius of 617.96 feet and a central angle of 22°39'07" and being subtended by a chord which bears North 75°45'03" East 242.72 feet; thence easterly and northeasterly along said curve, a distance of 244.31 feet; thence North 64°25'29" East tangent to said curve, a distance of 613.50 feet to the beginning of a curve tangent to said line; thence northeasterly and easterly a distance of 384.52 feet along the curve concave to the south, having a radius of 996.74 feet and a central angle of 22°06'12"; thence South 11°46'54" East, a distance of 15.56 feet; thence South 66°33'44" West, a distance of 1339.89 feet to the Point of Beginning. Containing 1.846 ACRES.

. . . is hereby changed from I-2, Light Industrial District to B-1, General Business District ,

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this Section to be amended in accordance therewith.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO LIBERTY UNIVERSITY, INC., AND LYNCHBURG CHRISTIAN ACADEMY, FOR USE OF THE PROPERTY AT 100 MOUNTAIN VIEW ROAD, 1971 UNIVERSITY BOULEVARD AND LIBERTY MOUNTAIN DRIVE TO ALLOW EDUCATIONAL USES, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Liberty University, Inc., and Lynchburg Christian Academy for a Conditional Use Permit at 100 Mountain View Road, 1971 University Boulevard and Liberty Mountain Drive to allow university and Grades K-12 educational uses, be, and the same is hereby, approved, subject to the following conditions:

1. The property shall be developed in substantial compliance with the site plan entitled Master Plan for Rezoning and Conditional Use Permit as prepared by ACRES of Virginia, Inc., dated November 4, 2003 and received November 19, 2003.
2. The westbound "on" ramp from Liberty University to U.S. Route 460 shall be constructed within one year from the approval of this conditional use permit. The estimated cost of constructing the ramp shall be bonded immediately following approval of this conditional use permit. A gated emergency vehicle access shall be incorporated into the design of this ramp. Location of the "on" ramp from Liberty University to U.S. Route 460 shall be as shown on "Proposed Location of "on" ramp to U.S. Route 460 West" dated 11/26/03. Final design is subject to approval by the City Traffic Engineer and the Virginia Department of Transportation.
3. Prior to the issuance of building permits for Phase II of the student housing as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003 a traffic study shall be conducted by the petitioner to determine if an "off" ramp from the eastbound lanes of U.S. Route 460 or a traffic signal at the intersection of Candler's Mountain Road and Liberty Mountain Drive or other road improvements are needed. This traffic study is subject to the approval of the City Traffic Engineer. Any needed improvements will be installed by the petitioner prior to the construction of any portion of the Phase II apartments.
4. Within one year of the approval of this conditional use permit the full cost of the following items shall be bonded and construction shall be completed within one year of the bond being submitted to the City of Lynchburg:
  - a. Mountain View Road shall be converted to "right in" and "right out".
  - b. A right turn lane at the intersection of Mountain View Road and Candler's Mountain Road.
  - c. The petitioner will submit a \$15,000 bond to build a right turn lane at time of CUP approval. Within one year of CUP approval, the City Traffic Engineer will make a determination of whether a right turn lane into the site at the existing signal is still needed.
  - d. The access between Liberty University and Ericsson Drive as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.
  - e. Vehicular and pedestrian access roads as shown on the Master Site Plan for Rezoning and Conditional Use Permit received November 19, 2003.Location and design of all required traffic improvements is subject to approval by the City Traffic Engineer.
5. Prior to any portion of the property located at 100 Mountain View Road being used for K-12 uses, a site plan showing the locations of recreation areas shall be submitted to and approved by the City Planner.
6. The Liberty University Main Campus connection to Wards Road shall be relocated to Harvard Street as shown on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 within one year of the approval of this conditional use permit. This condition is subject to the petitioner obtaining the approval of Norfolk Southern Railroad and any other property owners involved.
7. Any areas cleared due to the construction of the proposed student housing / apartments as denoted by cross hatching on the Master Plan for Rezoning and Conditional Use Permit received November 19, 2003 shall be reforested and replanted with a mixture of 25% evergreen and 75% deciduous at a rate of 50 trees per acre. All deciduous trees shall be shade type trees. All trees shall be a minimum of 2.0 inches in caliper at

time of planting. The City's Urban Forester and City Planner shall approve the reforestation plan as to location and type of trees to ensure compliance with the submitted proffers associated with the rezoning.

8. Any new proposed student housing / apartment buildings shall be similar in appearance to the existing student housing on Liberty Mountain Drive.

9. Any new parking areas shall have landscaped islands every 10 – 15 spaces with shade type trees and surrounded by shrubs. Street trees shall be planted every 40 feet on both sides of any new access roads. The City's Urban Forester and City Planner shall approve the landscaping plan as to the location of and type of trees and shrubs.

10. Adequate parking shall be provided as required by the City of Lynchburg, Zoning Ordinance with the exception of the 1989 variance.

11. Student enrollment figures shall be based on numbers reported by the State Council of Higher Education for Virginia (SCHEV).

12. The recreation facility approved by the City Council on October 14, 2003 is allowed to remain as an accessory use to the University provided that the following conditions are met:

a. Appropriate emergency vehicle access shall be provided to "all" practice fields as determined by the Fire Marshals Office and designated on the final approved site plan. Recreation fields without appropriated emergency vehicle access as determined by the Fire Marshal, shall not be used for any recreation purpose until the required access is constructed.

b. A fertilization schedule and application rate will be submitted to the Planning Division for review by the Environmental Planner for any "green" areas associated with the golf driving range on a yearly basis. The petitioner shall comply with any changes to the fertilization plan that the Environmental Planner may require.

c. The golf driving range will be constructed in a manner so that golf balls will not be hit toward parking areas, or practice filed areas, and will be contained entirely within the property boundaries. Boundaries of the golf driving range shall be designated on the final approved plan in such location as approved by the City Planner.

13. The conditional use permit is valid for a 10,000 maximum student enrollment of Liberty University. Further review by the Planning Commission and the City Council of any expansion project is not required providing all conditions are met and student enrollment of Liberty University does not exceed 10,000 students. When student enrollment exceeds 10,000 students, Liberty University shall be required to obtain a new conditional use permit from the Planning Commission and the City Council.

14. All renovations to the building will be in compliance with the International Building Code (IBC) as determined by the City's Building Official.

15. This CUP will supersede all previous CUP's as related to Areas "A, B & C" as shown on the map entitled "Jerry Falwell Ministries, Rezoning / CUP Areas", dated November 26, 2003.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

**WILLIAM E. McRORIE**  
ATTORNEY AT LAW

TELEPHONE (804) 528-1395  
WEM@NTELOS.NET

717 COURT STREET  
LYNCHBURG, VIRGINIA 24504

Lynchburg City Council  
Attn: Pat Kost, clerk  
City Hall  
Church Street  
Lynchburg, Virginia 24504

November 4, 2003

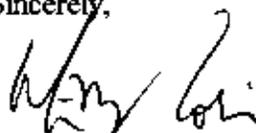
RE: TRBC REZONING

Lynchburg City Council:

When the matter of proposed rezoning of the former Ericsson property comes before you at your meeting on December 16, 2003, after being heard by the Planning Commission, in the alternative and at your pleasure I would like to be able to propose that you find the proposed uses to be compatible to the existing zoning ( Code Section 35.1-40(b)120).

If the proposed rezoning meets with your approval a finding of compatibility will not be necessary but I want to have this option available if needed.

Sincerely,



W.E. McRorie

**RECEIVED**

**NOV 07 2003**

**COUNCIL SECRETARY**



# MEMORANDUM

## The Department of Community Planning & Development

### Planning Division

455-3900

To: Kim Payne, City Manager  
From: Tom Martin, AICP, City Planner  
cc: Rachel Flynn, AIA, Director  
Subj: Former Ericsson Property  
Date: November 11, 2003

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In reference to Mr. W. E. McRorie's November 4, 2003 letter to the City Council, the Planning Division offers the following opinion.

As you are aware, applications for a rezoning and a conditional use permit (CUP) were submitted by Liberty University (LU) and Thomas Road Baptist Church (TRBC) in August 2003. They requested that the property known as the former Ericsson property be re-zoned from I-2, Light Industrial District to B-5, General Business District (Conditional) to allow a church use. Further they submitted a CUP application that would permit the property to be used for university and K-12 school purposes in the proposed B-5 District. A separate conditional use permit was approved by the City Council for a "community recreation facility" in the I-2 district on October 14, 2003.

In lieu of the rezoning and CUP applications, Mr. McRorie, on behalf of LU and TRBC, is requesting that City Council determine that "church, university and K-12 school" uses are compatible with industrial uses. As stated in zoning ordinance Section 35.1-40(b)(120), City Council has the authority to deny or approve such a request. The ordinance states that "other uses determined by the City Council to be of similar character to and compatible with the above [by-right] uses" may be permitted. The "above uses" include 119 by-right uses in an I-2 district. Examples include industries such as "automobile and truck parts manufacturing" and the services that support industry such as "data processing service." Given the specificity of the extensive list of types of uses allowed by right, we believe that there was a particular intent by the statement "other uses determined by City Council to be . . . compatible." The intent was to permit industries or industry support services in I-2 that the City Council did not list at the time of ordinance approval or that might be developed in the future, so long as such unenumerated uses were "compatible" with the enumerated uses. Obviously no list of even 119 uses could have been considered comprehensive at the time it was written, much less in the light of expected future developments in the field of industry. An example would be cellular phone manufacturing, which is not listed as a by-right use, but is clearly a compatible use. We believe that church, university and K-12 school uses are

The City of Lynchburg, Virginia

not compatible with the by-right uses listed in the I-2 district. To find such uses compatible would destroy the fundamental structure of the zoning ordinance, resulting in land use decisions being made on an entirely unpredictable and ad hoc basis.

City Council has determined where church, university and K-12 school uses are compatible by including them in certain zoning districts, other than I-2, either by-right or with a conditional use permit. The City Council intentionally omitted these uses from industrial districts, and by so doing unequivocally determined that church, university, and K-12 school uses are *not* compatible with the industrial uses enumerated in the ordinance for I-2 districts. To allow otherwise would severely hinder the stability of land use and the economic viability of the City of Lynchburg.

It is the recommendation of the Planning Division that City Council denies the petitioner's request to find that church, university and K-12 school uses are compatible with the enumerated uses in I-2 industrial districts. It is also recommended that the petitioner be strongly discouraged from presenting the request to Council, as the request is clearly outside the scope of the applicable ordinance section. The acceptable approach is to proceed with consideration of the rezoning and conditional use permit applications as submitted.



# MEMORANDUM

## The Department of Community Planning & Development

Planning Division

455-3900

To: City Council  
From: Tom Martin, AICP, City Planner  
Subj: Ericsson Rezoning, 100 Mountain View Road  
Date: December 11, 2003

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As requested, please find copies of the B-1, Limited Business District, B-2, Local Neighborhood Business District, B-3, Community Business District, and B-5, General Business District sections of the Zoning Ordinance. The uses that have been voluntarily excluded by the petitioner with the B-5, (Conditional) request have been denoted by a strikethrough. All other remaining uses would be allowed by right within the existing building with no further review by the Planning Commission or the City Council.

It is important to note that staff analysis was based upon the property being used for church, university and K-12 uses. Impacts resulting from the development of the property for uses not specifically listed in the submitted petitions will be difficult to predict.

If you would like to discuss this matter further, please do not hesitate to contact me.

**Sec. 35.1-34. Limited business districts (B-1).**

(a) Intent. These districts are intended to provide for business uses which, if properly designed, are compatible with nearby residential areas because they generate a minimum of lights, noise and other nuisances. While they generate a moderate level of employee traffic, they do not involve the constant traffic flows characteristic of retail activities. These districts can provide a transition from retail districts and heavily travelled thoroughfares to residential areas.

(b) Prohibited uses. Within any business B-1 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for any industrial or manufacturing purposes.

(c) Uses permitted by right. The following uses will be permitted by right subject to the regulations of the zoning ordinance, including those specific uses in Article X of the zoning ordinance:

- (1) Uses permitted by right and as regulated in the adjacent residential district of highest density.
- (2) Barber shops and beauty parlors.
- (3) Branch banks and branch offices of savings and loan associations, including incidental drive-in service windows for such types of businesses.
- (4) Boardinghouses or lodging houses.
- (5) Care centers.
- (6) Churches and other places of worship.
- (7) Clubs and fraternal organizations.
- (8) Computer centers.
- (9) Convalescent and nursing homes.
- (10) Convents and monasteries.
- (11) Dance studios.
- ~~(12) Funeral homes and undertaking establishments.~~
- (13) Group homes.
- (14) Halls or theaters for music, drama, lectures or other civic or amateur presentations of the arts.
- (15) Libraries, museums and similar institutions of noncommercial nature.
- (16) Offices, provided that no merchandise, material or equipment is stored or kept on the premises, either inside or outside of the building, for sale, demonstration or repair.

(17) Parking of passenger automobiles, not including trailers, trucks or buses, on open lots for transient occupancy, for which fees may be charged; however, automobile sales will not be permitted on such lots, nor shall any floodlights, or similar device, be used for illumination, except shaded lights sufficient for safety and illuminating only the lot itself may be used, provided, the source of light is not visible beyond the property line.

(18) Police stations, fire stations and public offices providing decentralized services to surrounding residential areas.

(19) Rooming houses.

(20) Schools for general education that do not exceed a maximum enrollment of twenty-five (25) students.

(21) Telecommunications towers and facilities (see Article XI. Telecommunications towers and facilities).

(22) Telephone exchanges and dial centers.

(23) Tourist homes or bed and breakfast.

(24) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(d) Permitted accessory uses. The following uses will be permitted as accessory to principal uses in limited commercial districts as regulated by Section 35.1-24 of the zoning ordinance.

(1) Uses permitted and as regulated as accessory uses in the adjacent residential district of the highest density.

(2) Off-street parking lots or structures under the regulations of Section 35.1-25 and Article X of the zoning ordinance.

(3) Signs, as permitted herein.

(4) Pharmacies within buildings and occupied by and incidental to medical and dental offices.

(5) Food service facilities for the use of persons regularly employed in permitted uses, where such facilities are included within the building served.

(e) Uses permitted by conditional use permit. The following uses shall be permitted by conditional use permit in limited business districts (B-1) under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

***(ALLOWED BY RIGHT IN B-5)***

(1) Cemeteries and columbariums

- (2) Cluster commercial development.
- (3) Hospitals and sanitoriums.
- (4) Public utilities.
- (5) Schools and colleges for general education with a total enrollment of over twenty-five (25) students.
- (6) Traditional neighborhood developments.

**Sec. 35.1-35. Local neighborhood business districts (B-2).**

(1) Uses permitted by right in R-1 through B-1 districts and as regulated in the adjacent residential district of the highest density.

(2) Establishments selling the following types of merchandise at retail wholly within an enclosed building:

- Bakery goods
- Confectionery goods
- Antiques and gifts
- Delicatessen goods
- ~~Drugs, pharmaceuticals~~ and cosmetics
- Books, magazines and stationery
- Flowers and other plants
- Food
- ~~Hardware~~
- Variety goods

(3) The following types of service establishments:

- Barber and beauty shops
- ~~Laundries and dry cleaning establishments: self-service and pick-up and delivery, but without laundry and dry cleaning equipment except coin-operated self-service machines~~
- ~~Custom dressmaking~~
- ~~Shoe repairing, with customary sales of related merchandise~~
- Tailoring shops
- Branches of banks and savings and loans institutions
- Medical, dental and other professional offices, restaurants, completely enclosed within a building.

(4) Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following shall be permitted as accessories to permitted principal uses in local neighborhood commercial B-2 districts:

(1) Accessory uses permitted in the adjacent residential district of highest permitted densities.

(2) Off-street parking lots as regulated in Section 35.1-25 of this ordinance.

(f) Uses permitted by conditional use permit. The following uses shall be permitted in local neighborhood business districts as conditional use under the regulations of Section 35.1-15 and Article X of this ordinance:

***(ALLOWED BY RIGHT IN B-5 DISTRICT)***

(1) Uses permitted as conditional use permits in the B-1 districts and as regulated in the adjacent residential district of the highest density.

(2) Outdoor restaurants.

(3) Schools and colleges for general education with a total enrollment over fifty (50) students.

**Sec. 35.1-36. Community business districts (B-3).**

(a) Intent. These districts are to provide for commercial and other services for large sections of the city. They will include a wide range of business uses and other uses compatible with a moderate-sized business area, at densities lower than those permitted in the central business area. New districts of this type will be strongly encouraged to develop as fully planned entities.

(b) Prohibited uses. Within any business B-3 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building shall be erected which is intended or designed to be used in whole or in part for any industrial or manufacturing purpose.

(c) Uses permitted by right. The following uses will be permitted by right in community business districts under the regulations of Section 35.1-14 of the zoning ordinance:

(1) Uses permitted by right or by conditional use permit in the R-1 through B-2 districts, except a PUD, a CCD, a TND, or uses specifically listed as requiring a conditional use permit in the B-3 district.

(2) Establishments selling the following types of merchandise at retail:

**Household appliances**

Art works

Art supplies

Bakery goods

Bicycles

Business machines

~~Carpets and rugs~~

Clothing and accessories

Dry goods

Furniture

~~Garden and farm supplies~~

~~Greenhouses, nurseries and garden supply establishments~~

Jewelry

Luggage

Musical equipment and supplies  
~~Orthopedic appliances~~  
~~Optical goods~~  
~~Paint~~  
~~Pets~~  
~~Radios, television sets and phonographs~~  
Phonograph records  
Photographic equipment  
Sporting goods, toys and games  
~~Supermarkets or food stores exceeding eight thousand (8,000) square feet in total floor area~~  
~~Virginia A.B.C. package stores~~  
Hotels and motels

(3) Services listed below:

Auditoriums, limited to a maximum capacity of one thousand (1,000) persons  
Automobile driving schools  
Banquet halls  
Bicycle rentals  
Blueprinting, duplicating and printing shops limited to a maximum of five thousand (5,000) square feet of floorspace  
Business services not involving large mechanical devices schools and colleges of all types (including vocational schools) that do not exceed a maximum enrollment of one hundred (100) students  
Public and commercial parking lots and parking garages for automobiles only  
Dance studios  
~~Funeral undertakers~~  
Interior decorating establishments  
Medical and dental laboratories  
Loan offices  
~~Locksmith shops~~  
~~Opticians and optometrists~~  
~~Pawn shops~~  
Photographic studios  
Stage and motion-picture theaters  
Travel bureaus  
Gymnasiums and health salons

(4) Banks, savings and loan, and similar establishments.

~~(5) Wholesale sales establishments with storage limited to a maximum area of one thousand (1,000) square feet.~~

(6) Radio and television studios and stations, without towers, provided that studios produce no exterior electromagnetic effect and are soundproofed from adjoining properties.

(7) Restaurants, including drive-in and outdoor restaurants.

(8) Other uses determined by the city council to be similar to and compatible with the above uses.

(d) Permitted accessory uses. The following shall be permitted as accessories to permitted principal uses in community business districts:

(1) Accessory uses permitted in the B-1 and B-2 districts (except those uses customarily permitted only as accessories to residential uses) shall be permitted in B-3 districts only as accessories to residential uses permitted and regulated herein as conditional use permit.

(2) Dance floors, accessory to restaurants.

(3) Other uses determined by the city council to be customary as accessories to uses permitted in this district.

(e) Uses permitted by conditional use permit. The following uses shall be permitted in community business districts as conditional use under the regulations of Section 35.1-15 and Article X of the zoning ordinance:

(1) Residential uses, when part of a multi-use development on a minimum lot size of ten (10) acres.

(2) Automobile service stations.

(3) Arts and crafts shops.

(4) Arenas and auditoriums limited to a maximum capacity of two thousand five hundred (2,500) persons.

(5) Temporary fairs, exhibitions and circuses.

(6) Veterinarian hospitals without outdoor kennels, including facilities for the sale and care of animals normally kept as pets but not farm animals.

~~(7) Automobile and trailer rentals.~~

(8) Commercial recreation places such as dancing, bowling, billiards and the like, when located within enclosed buildings.

(9) Cluster commercial development.

(10) Schools and colleges of all types exceeding a maximum enrollment of one hundred (100) students.

(11) Traditional neighborhood developments.

#### **Sec. 35.1-38. General business district (B-5).**

(a) Intent. This district is to provide for a variety of commercial and similar uses which require large sites and which often produce substantial nuisance effects. The location of these districts should provide for a high level of access, relatively large amounts of level land, and opportunities to shield adjacent residential districts from nuisance effects.

(b) Special regulations. The following special regulations shall apply in general business districts:

(1) Direct access shall be available to at least one (1) arterial street.

(2) Driveways shall be kept to a minimum and shall meet the requirements of the "Standard Entrance Policy" of the City of Lynchburg.

(3) Buffers shall be provided along boundaries of this district adjacent to any residential district.

(c) Prohibited uses.

(1) Within any business B-5 district, as indicated on the official zoning map, no lot, building or structure shall be used and no building or structure shall be erected which is intended or designed to be used, in whole or in part, for other than one (1) or more of the following specified purposes; provided that no operations shall be carried on which create conditions of smoke, fumes, noise, odor, light or dust detrimental to health, safety or the general welfare of the community.

(d) Uses permitted by right. The following uses shall be permitted by right in the general business district subject to the regulation of Section 35.1-14 to the zoning ordinance:

(1) Uses permitted by right in the B-3 district except one (1) and two (2) family dwellings.

(2) The following additional uses:

Auction rooms  
Armories  
~~Automobile and truck rental~~  
~~Automobile, truck and trailer sales with outside sales and storage permitted~~ Automobile service stations  
Automobile and truck tire sales  
~~Rebuilding and retreading establishments~~  
Battery sales  
Bottling plants  
Billboards, subject to the regulations of Section 35.1-26.1  
~~Blacksmith shops~~  
Bookbinding  
~~Building material sales~~  
Carpentry shops  
Coffee and peanut roasting  
Commercial amusements, including swimming pools, golf courses and driving ranges, and skating rinks, but not including circuses, carnivals, and race tracks  
Contractors' establishments  
Dairies, pasteurizing plants, or ice cream manufacture  
~~Dance halls~~  
Depositories for the storage of office records, microfilm or computer tapes  
Diaper services  
Drive-in theaters  
Dry cleaning and dyeing plants  
~~Exterminators~~  
Furniture upholstering and repair shops  
Custom furniture manufacturing  
Commercial greenhouses  
Hiring halls and other places of assembly for the registration or assignment of employment  
~~Automobile painting and body repair shops~~  
Laundries  
~~Sales lots for construction and farm equipment and similar machinery~~

Ice manufacture

~~Commercial kennels for dogs and other pets~~

~~Wholesale or produce markets~~

~~Monument and gravestone sales~~

Motion-picture production studios

Newspaper offices

Photographic developing and printing establishments

Printing plants

~~Second-hand stores~~ including auction sales provided such activity is conducted wholly within an enclosed building

~~Small sign shops~~

Storage warehouses and yards, except sandyards, gravel yards, coal yards, railroad yards, automobile wrecking yards, junkyards or the storage of combustibles prohibited by the fire code

~~Travel trailer sales and rentals~~

Window blinds, shades and awnings (manufacture)

Leather products (not to include tanning)

Other uses determined by the city council to be of similar character to and compatible with the above uses.

(e) Permitted accessory uses. The following uses are permitted as accessory to principal uses permitted in general business districts:

(1) Accessory uses permitted in B-3 districts.

(2) Other uses determined by the planning commission to be customarily accessory to uses permitted in this district.